



KENTUCKY

General News



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Fighting for Kentucky Homeowners

After announcing Kentucky's participation last year in the historic national mortgage foreclosure settlement, Attorney General Jack Conway assured consumers that his work was not over. General Conway has followed through on that commitment filing suit against "MERS" and announcing Kentucky's participation in a \$120 million multi-state settlement with Lender Processing Services, Inc. (LPS).

On January 23, General Conway's Office filed a lawsuit against MERSCORP Holdings, Inc. and its wholly-owned subsidiary Mortgage Electronic Registration Systems, Inc. (MERS) for violations of Kentucky law. The lawsuit alleges that MERS violated Kentucky law by not recording mortgage assignments with County Clerks when mortgages were sold or transferred from one bank to another.

"Kentucky's statute is clear. It requires assignments be recorded with County Clerks and a \$12 fee paid to the state. MERS directly violated that law by creating this system that provides no public record of sales or transactions and deliberately circumvents paying recording fees to states," General Conway said. "The process makes it difficult for consumers to access data to find out who owns their loans, and the Commonwealth is ripped off when it comes to recording fees."

By creating a system that provides no public record of sales or transactions, General Conway says MERS has destroyed the integrity of the public land recording system in the Commonwealth. Hundreds of thousands of Kentucky loans are registered in MERS.

General Conway's lawsuit alleges that MERS violated Kentucky's Consumer Protection Act by committing unfair, false, misleading or deceptive conduct. MERS could be fined up to \$2,000 per violation.

More information — <http://goo.gl/i91OW>



General Conway Joins \$121 Million Multi-state Settlement with LPS



On January 31, General Conway announced Kentucky's participation in a \$121 million multi-state settlement with LPS and its subsidiaries, LPS Default Solutions and DocX, over allegations of misconduct related to mortgage loan default services. General Conway was among 45 Attorneys General to reach agreement with LPS.

"This settlement is yet another step in holding the nation's largest banks and mortgage servicers accountable for a crisis that has hurt families and communities across Kentucky and the nation," General Conway said. "It also ensures increased oversight and better protection for consumers against the shoddy and unlawful practices that created the mortgage foreclosure crisis."

The proposed consent judgment resolves allegations that LPS "robo-signed" documents and engaged in other improper conduct related to the mortgage loan default services it provided to banks and mortgage loan servicers. Kentucky's share of the settlement is approximately \$949,000.

More information — <http://goo.gl/8ISR8>

Second Chances for Struggling Homeowners, Neighborhoods

In the year since General Conway announced his participation in the \$25 billion national mortgage foreclosure settlement, nearly 1,000 Kentucky homeowners have received assistance under the settlement.

Kentucky's share of the settlement totals almost \$58 million. Thirty-eight million dollars is being allocated by the settlement administrator to consumers who qualify for refinancing, loan write downs, debt restructuring and/or cash payments of up to \$2,000. To date, the banks report providing more than \$33 million in relief to 944 Kentucky homeowners. The average borrower received more than \$35,000 in assistance.



Kentucky also received \$19.2 million in hard dollars from the banks to assist agencies that create affordable housing, provide relief or legal assistance to homeowners facing foreclosure, redevelop foreclosed properties and reduce blight created by vacant properties. Lexington's Hartford Place Apartments is a prime example of one of the neighborhoods to benefit from the settlement money.

As a result of assistance from the Attorney General's Office working in partnership with the Governor's Office, the Kentucky Housing Corporation and Community Ventures Corporation, the foreclosed property in north east Lexington is being revitalized, providing safe and affordable housing for 49 families in Lexington.

"Without all of these partners coming together, it couldn't have happened," said Kevin R. Smith, President and CEO of Community Ventures Corp. "Families on Martha Court now have a safe place to call their own."

At a January 8 press conference, General Conway said Hartford Place is an example of how mortgage settlement funds have transformed streets, neighborhoods and lives.

Fortune Hi-Tech Marketing Shut Down in Wake of Attorney General's Investigation

A court appointed receiver is in control of Lexington-based Fortune Hi-Tech Marketing (FHTM) following a two-year investigation by the Office of the Attorney General and Federal Trade Commission (FTC). The headquarters and a warehouse in Danville, Ky. were secured and assets seized on January 28 after General Conway's Office, the FTC and the Attorneys General of Illinois and North Carolina filed a lawsuit in federal court against FHTM and its principal operators, Paul Orberon and Thomas Mills, for allegedly operating a global pyramid scheme.

"After our office began reviewing the documents, we believed that Fortune Hi-Tech Marketing was operating a massive pyramid scheme that involved more than 100,000 people across the United States and in several other countries," General Conway said. "We think damage to consumers could be in the hundreds of millions of dollars."

Kentucky's investigation into FHTM began in 2010 after the Attorney General of North Dakota and State Auditor of Montana took legal action against the alleged pyramid operation in their states. The Kentucky Attorney General's Office and the FTC were also contacted by the North Carolina Attorney General and Illinois Attorney General regarding complaints from consumers in those states.

"Operations like this claim to offer career success and high earnings. But the reality is that only the few at the top make money, and they make it at the expense of new recruits who end up losing," said North Carolina Attorney General Roy Cooper.

"The perpetrators of this pyramid scheme promised big returns, but instead delivered significant losses for thousands of families in Illinois and all across the country," Illinois Attorney General Lisa Madigan said. "In collaborating with our state and federal partners, we're seeking to bring the full force of the law against this entity to ensure that it is put out of business for good."

The FTC and states are seeking permanent injunctive relief prohibiting the illegal operations of FHTM, along with civil penalties, damages, and restitution for consumers. Consumers or FHTM employees with questions can call the FTC's hotline at 202-326-2643.

More information — <http://goo.gl/isL2j>



General Conway Files Fourth Lawsuit in For-profit College Investigation



Attorney General Conway has filed a consumer protection lawsuit against Spencerian College for allegedly misrepresenting job placement numbers to consumers. This marks the fourth lawsuit General Conway has filed as part of his ongoing investigation of the for-profit college industry.

The complaint alleges that Spencerian, which is owned by the Sullivan University system, violated the Kentucky Consumer Protection Act by making unfair, false, misleading and deceptive statements in its publications and on its website regarding the rate at which its students were able to obtain employment in their fields of study.

“Spencerian College provided students with information that it knew was false. The numbers substantially contradict data that it provided to its accreditors,” General Conway said. “I believe Spencerian College was more concerned about signing students up for classes and getting its hands on student loan money than educating students and placing them in jobs. The bottom line is they preyed on people who were trying to build better lives for their families in these tough economic times.”

The Attorney General’s investigation found that the job placement numbers Spencerian promoted publically were, in many instances, 30 to 40 percent higher than the numbers it reported to its national accreditor.

General Conway’s complaint, filed in Jefferson Circuit Court, seeks an injunction against Spencerian to prohibit further deceptive trade practices. The Attorney General has also filed suit against Daymar College and National College over allegations that the for-profits violated Kentucky’s Consumer Protection Act. A federal judge declined the Attorney General’s request to intervene in a whistle-blower suit against Education Management Corporation (EDMC), the parent company of Brown Mackie College, over allegations the company illegally paid recruiters based on the number of students they enrolled.

The investigation into EDMC and Brown Mackie continues.

More information — <http://goo.gl/ZxZtb>

Year	Program	Advertised Rate	Reported Rate	Difference
2010	Phlebotomy	80%	40%	40%
2008	Medical Clinical Specialist	100%	67%	33%
2008	Invasive Cardio. Tech	67%	50%	17%
2007	Medical Assistant	100%	83%	17%
2007	Medical Transcriptionist	100%	67%	33%
2007	Medical Admin. Assistant	88%	75%	13%
2007	Phlebotomy	87%	78%	9%
2007	Limited Medical Radiology	88%	68%	20%
2007	Health Unit Coord.	72%	63%	9%

Making Progress in Battle Against Prescription Drug Abuse

Efforts to combat the epidemic of prescription drug abuse in Kentucky are making a difference. In remarks before the National Governor’s Association Policy Academy on Reducing Prescription Drug Abuse on January 15 and the Different Faces of Substance Abuse conference on January 24, General Conway said that the state’s multi-layered response, including passage of landmark legislation to crack down on illegal pain clinics, is helping to combat a problem that claims more lives than traffic accidents.

“If you look at the statistics from November 2012 vs. November 2011, the number of prescriptions for Opana was down 48 percent. During that same time period, prescriptions for Hydrocodone and Oxycodone were down 16 percent. Forty five pain clinics throughout the Commonwealth of Kentucky were identified a little over a year ago and today 20 of those have shut down because they can’t comply with the registration requirements of House Bill 1.”

General Conway also praised the work being done by his Prescription Drug Diversion Task Force, opening more than 430 new drug diversion cases. And through his Keep Kentucky Kids Safe program, General Conway has joined with concerned parents and state and law enforcement partners to warn nearly 20,000 middle and high school students across Kentucky about the dangers of abusing prescription drugs.

A new report is also winning praise among those on the frontline of the prescription drug abuse battle. Statistics published by the Substance Abuse & Mental Health Administration shows a decline in the nonmedical use of prescription pain relievers among all age groups in Kentucky since 2009. For the first time, Kentucky is now below the national average for prescription drug abuse.

Link to report: <http://goo.gl/KopZI>



OxyContin Trial Will be Held in Kentucky

A federal appeals court has cleared the way for a lawsuit filed by the Attorney General's Office against Purdue Pharma to be heard in Pike Circuit Court. The U.S. Court of Appeals for the 2nd Circuit upheld a lower court's ruling ordering the lawsuit against the manufacturer of OxyContin back to Pike County.

"After years of delay tactics, Purdue Pharma will now answer to a Kentucky court and a Kentucky jury," General Conway said.

The Commonwealth's lawsuit alleges that Purdue Pharma misled healthcare providers, consumers and government officials regarding the risk of addiction associated with OxyContin, a schedule II narcotic. The lawsuit seeks reimbursement for costs incurred in drug abuse programs, law enforcement actions, and prescription payments through Medicaid and the Kentucky Pharmaceutical Alliance program.



More information — <http://goo.gl/uw37k>

Former Pain Clinic Owner Indicted Following Attorney General's Investigation

General Conway and the U.S. Attorney for the Eastern District, Kerry B. Harvey, jointly announced the arrest and indictment of a former pain clinic owner in Kentucky on January 14. Ernest William Singleton, who operated the Central Kentucky Bariatric and Pain Management Center in Georgetown and the Grant County Wellness Clinic in Dry Ridge is charged with conspiracy to distribute oxycodone and conspiracy to launder funds from October 2010 until January 2013.

"Illegal pill mills have fueled the prescription drug epidemic in Kentucky that now kills more people than traffic accidents," General Conway said. "I appreciate the hard work of my Drug Branch Investigators, working in coordination with our state and federal law enforcement partners, in bringing this case forward."

The charges against Singleton are the result of an investigation by General Conway's Department of Criminal Investigations (DCI), working in partnership with the Drug Enforcement Administration (DEA), the Internal Revenue Service (IRS) and Kentucky State Police. Prosecution of this case is being handled by the U.S. Attorney's Office.

A charge is merely an accusation and a person is presumed innocent until and unless found guilty.

Senator Higdon, Rep. Mills Join General Conway at Keep Kentucky Kids Safe Program

Attorney General Conway and his Keep Kentucky Kids Safe partners had the support of two key lawmakers on January 17 as they warned students in Marion County about the dangers of prescription drug abuse. Senator Jimmy Higdon and Rep. Terry Mills joined General Conway as he hosted his prescription drug abuse awareness program at Marion County High School.



"I appreciate the active role Attorney General Conway has taken in addressing the illegal use of prescription drugs in Kentucky," said Sen. Higdon, who led efforts in the Senate to win passage of House Bill 1. "There has been a great deal of effort and collaboration, regardless of political party, to put forth legislation that helps us fight the epidemic of prescription drug abuse in the Commonwealth."

Representative Terry Mills told students that prescription drug abuse is the biggest problem facing Kentucky today.

"If we can make inroads into reducing prescription drug abuse, we can make Kentucky a better place to live," said Mills. "We will not only save lives, we will help save communities whose resources are being drained by the far reaching effects of prescription drug diversion and abuse."

General Conway also spoke to nearly 2,000 middle and high school students in Bullitt County.

Since launching the Keep Kentucky Kids Safe program in 2010 with concerned parents, government agencies and law enforcement partners, General Conway has alerted nearly 20,000 students to the dangers of abusing prescription pills.

More information — <http://goo.gl/ccBeK>

Would You Know if Your Teen Was Abusing Heroin?

Would you recognize the signs of heroin abuse? A new public service announcement (PSA) released by the Attorney General's office and the Kentucky Office of Drug Control Policy seeks to raise awareness about heroin abuse among young people.

The 30-second PSA, <http://youtu.be/leznM7P2O0g>, depicts a young woman in a morgue who describes how easy it has been to hide her heroin habit from her parents—that is until she becomes an overdose victim.

“This short PSA sends an important message to parents and teens across Kentucky,” General Conway said. “Don’t overlook the signs of heroin use. Missing prescription pills, valuables and lost appetite are all signs that your child may be abusing heroin, prescription pills or other illicit drugs. Ignoring the signs could mean a lifetime of heartache.”



The PSA, produced by the Nassau County, NY District Attorney's Office, is being distributed to television stations across Kentucky along with other drug abuse prevention videos, including the winning Keep Kentucky Kids Safe prescription drug abuse prevention PSA produced by members of the Clark County High School ASAP Youth Network: <http://youtu.be/QbZL75z3iOo>.

More information — <http://goo.gl/EJkxg>

Appeals Court Denies Michael Carneal's Request to Withdraw Guilty Plea

In a unanimous opinion issued on January 3, the Sixth Circuit Court of Appeals upheld a lower court ruling that denied Michael Carneal's request to withdraw his guilty plea in the 1997 Heath High School shooting that left three students dead and five others wounded.

“I am grateful to all of those in my Office of Criminal Appeals who have spent countless hours working to ensure that justice is upheld, so that we may bring closure to the victims of this crime that tragically impacted the Paducah community and our Commonwealth,” General Conway said.



Attorneys for Carneal, who was 14 at the time of the shooting, argued that he was mentally unfit to accept responsibility for the crime. Carneal pled guilty in 1998, but did not file for state post-conviction relief until 2004 and did not file for federal habeas relief until 2009.

The Attorney General's Office successfully argued that Carneal's appeal was not timely and therefore his conviction and life sentence should stand. Additionally, General Conway's prosecutors were able to prove that Carneal was competent in 2002, at which time he could have filed an appeal of his conviction.

“I hope this ruling brings some level of comfort to the families who lost loved ones and the victims who are still living with the injuries Carneal inflicted,” General Conway said.

Since General Conway took office in 2008, his Criminal Appeals division has filed more than 3,200 briefs on more than 10,400 issues and made nearly 240 oral arguments.