



December 2013

## Attorney General Conway Joins Sen. Stine & Rep. Tilley to Announce Bipartisan Anti-Heroin Legislation

A bill created to address an increase in heroin abuse and trafficking in communities across the Commonwealth will be introduced during the 2014 regular session of the Kentucky General Assembly. Attorney General Jack Conway joined Sen. Katie Stine and Rep. John Tilley on Dec. 19 to announce the bipartisan legislation.



“Many areas of the state have seen an increase in heroin use and overdoses. We cannot stand idly by and watch our families be torn apart,” General Conway said. “We have worked together to craft this bipartisan bill that helps us get to the root of the problem, which is treating opiate addiction.”

The comprehensive legislation that has been drafted over the past several months will address punishment, prevention and treatment.

“Statistics paint a grim picture,” said Sen. Stine, who serves as president pro-tem of the Kentucky Senate. “According to the recent report issued by the Office of Drug Control Policy for the year 2012, there were 1004 overdose deaths in Kentucky. Deaths from heroin overdose increased 650 percent from the previous year, and reports are that 2013 will be far worse than that. We must do everything we can to get the traffickers off the street, get treatment for addicts and educate our people, especially our youth, about the hazards of drug abuse, especially heroin.”

The proposed law will increase penalties for high-volume traffickers and allow traffickers to be charged with homicide. Both of these proposed changes to state law would make Kentucky consistent with current federal law. Under state sentencing guidelines, it would require large volume traffickers to serve 50 percent of their sentences. There currently is no distinction between large and small volume traffickers. The bill also decreases the time a defendant must serve before being eligible for parole if he or she cooperates with authorities.

The bill would require the Kentucky Medicaid Program to cover a broad array of substance abuse treatment options for people seeking opiate addiction treatment, and cost savings realized through House Bill 463 – a smart-on-crime measure designed to enhance public safety while reducing recidivism, increasing treatment options and maximizing tax dollars - would be directed to the Kentucky Agency for Substance Abuse Policy (KY-ASAP) to fund treatment and educational programs.

“The battlefield is always changing when it comes to drug abuse, which we have seen in recent years with spikes in meth, synthetic drugs and the abuse of painkillers,” said Rep. Tilley, who chairs the House Judiciary Committee. “We in Kentucky came up with solutions in each case that have been hailed as national models, and I am convinced that this legislation will continue that trend. It will do that by doing what we have done in the past: crack down on serious traffickers while increasing treatment options to help addicts escape the cycle. While there is no silver bullet, we feel this is the best approach.”

Other provisions in the bill include:

- ▶ The coroner or medical examiner must notify the Commonwealth’s Attorney of any overdose death caused by the use of a Schedule I controlled substance.
- ▶ Doctors are permitted to prescribe Naloxone to first responders and addicts’ family members to help prevent overdose deaths.
- ▶ Limited immunity from drug paraphernalia and possession charges for people who call 911 to help prevent a drug overdose death.
- ▶ Training for peace officers on heroin overdose recognition, interdiction, and treatments.

A copy of the bill is available here: [http://ag.ky.gov/pdf\\_news/heroin-legislation.pdf](http://ag.ky.gov/pdf_news/heroin-legislation.pdf).

## Calloway County Students Win 2013 Keep Kentucky Kids Safe PSA Contest



Several students from Calloway County High School were among this year's winners of Attorney General Conway's Keep Kentucky Kids Safe public service announcement (PSA) contest. The annual competition for middle and high school students is part of General Conway's statewide prescription drug abuse awareness and prevention initiative.

The winning PSA was submitted by Calloway County High School students Austin Alexander, Cameron Brown, Keaston Johnson, Braxton Bogard, Taylor Smith, and Jacob Garland. The winners will receive an Apple iPad, or cash equivalent, compliments of the National Association of Drug Diversion Investigators (NADDI). You can view the winning PSA at <http://youtu.be/5DrcDsZOFkg>.

Finishing second was a video submission also produced by a group of students from Calloway County High School. Those students include Alexander Aizpurua, Kaitlyn English, Kayla Little, Bradley Stokes, David Wann, and Xiaodong Wang. They will receive a \$100 Amazon.com gift card donated by the Kentucky Pharmacists Association (KPhA). Both NADDI and KPhA are partners in the Keep Kentucky Kids Safe program. The PSA is available at <http://youtu.be/vwyJfjEmVuI>.

"I want to congratulate the winners and thank all of the students who participated in our PSA contest," General Conway said. "These students share our concern about a problem that is devastating families across the Commonwealth. Their video PSAs will serve as an important educational tool and a vivid reminder to their peers of the dangers of abusing prescription drugs."

The Clark County ASAP Youth Network received an honorable mention in this year's Keep Kentucky Kids Safe PSA contest. You can view the PSA at [http://youtu.be/A\\_GVK15X96k](http://youtu.be/A_GVK15X96k). The group won last year's PSA competition.

This year's winning PSAs and honorable mention are posted on the Attorney General's website at <http://ag.ky.gov/rxabuse>. The first-place video will also be included with anti-drug PSAs that the Kentucky Office of Drug Control Policy distributes to television stations across Kentucky.

## General Conway Asks FDA to Reconsider Decision to Approve Zohydro ER

Attorney General Conway and 28 state attorneys general from across the country, in a bipartisan effort, have asked the commissioner of the U.S. Food and Drug Administration (FDA) to reconsider its recent decision to approve the high-dose narcotic painkiller Zohydro ER.

In October, the FDA approved Zohydro ER against the recommendation of its advisory panel, which voted 11-2 in opposition because of the drug's high potential for misuse and its lack of an abuse-deterrent formulation. Additionally, one day before approving Zohydro ER, the FDA recommended reclassifying all hydrocodone products to Schedule II controlled substances because of the abuse potential. Zohydro ER is the first hydrocodone-only opioid narcotic, which is reported to be five to 10 times more potent than traditional hydrocodone products that are usually manufactured in a formulation with other non-narcotic analgesics.



“Prescription pill abuse has devastated families across Kentucky,” General Conway said. “The approval of this very potent drug is troubling because, unlike extended-release opioids containing abuse-deterrent properties, there is nothing that would prevent someone from easily crushing or injecting Zohydro ER to get high. The decision is especially concerning given that the FDA’s own advisory panel voted against the drug’s approval.”

In a Dec. 10 letter to the commissioner of the FDA, General Conway and the bipartisan coalition of attorneys general asked that if the FDA will not reconsider its approval of Zohydro ER, then it should set a rigorous timeline for the drug’s reformulation to require abuse-deterrent properties.

The letter is available here: <http://goo.gl/UybuF8>.

## **General Conway Calls for Tamper-Resistant Versions of Generic Prescription Pain Relievers**

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Attorney General Conway has joined 42 state and territorial attorneys general in sending a letter to the U.S. Food and Drug Administration (FDA) urging it to require manufacturers of generic prescription pain relievers to develop tamper-resistant versions of their products. General Conway co-sponsored the letter with Florida Attorney General Pam Bondi, Georgia Attorney General Sam Olens, Maine Attorney General Janet Mills and Missouri Attorney General Chris Koster.

In their Dec. 16 letter, the bipartisan coalition of attorneys general thanked the FDA for their recent efforts to require abuse-deterrent formulations for branded opioid drugs. However, they also urged the FDA to go even further by ensuring that generic opioids, like their branded counterparts, have abuse-deterrent properties.

General Conway and Florida Attorney General Pam Bondi co-chair the National Association of Attorneys General Substance Abuse Committee. A copy of the letter sent to the FDA is available here: <http://goo.gl/ZKgIAb>.



Attorneys general across the country remain in the national forefront combating prescription drug abuse by sponsoring drug-take back efforts, spearheading legislative and law enforcement initiatives in their respective jurisdictions, and mandating state level prescription drug monitoring programs.

## **General Conway Takes Action Against Deceptive Health Insurance Websites**

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Acting to protect Kentucky consumers attempting to obtain health insurance under the new Affordable Care Act, Attorney General Conway required a company operating a website deceptively similar to the Kentucky health insurance exchange to take down its site. This is the third website against which the Attorney General’s Office of Consumer Protection has taken action, causing those websites to be taken down, corrected or blocked.

The copycat website was [kynect101.com](http://kynect101.com), which was deceptively similar to [kynect.ky.gov](http://kynect.ky.gov), Kentucky’s official health insurance exchange website. In the wake of difficulties with the federal government’s website, the Kentucky site has been hailed as a national model. However, some consumers attempting to locate the site through search engines were being deceptively steered to the [kynect101.com](http://kynect101.com) website instead of [kynect.ky.gov](http://kynect.ky.gov), where they were provided false information about their options under the federal Affordable Care Act, including being informed that there were no plans with federal subsidies or tax credits available to offset a portion of their insurance premiums.

Attorney General Conway’s Office of Consumer Protection contacted the owners of the website on Nov. 26, demanding that the site be taken down. The letter also noted that [kynect](http://kynect.ky.gov) is a copyrighted term and that the copycat site infringed on the state’s copyrights.

Google was also contacted and asked to remove the website from Google search results. The site has now been taken down and no longer appears on Google search results.

“I will not tolerate sites that mislead consumers,” General Conway said. “[Kynect.ky.gov](http://kynect.ky.gov) is the only official government website and has clear information about the plans and subsidies that are available through the Affordable Care Act.”

Attorney General Conway received information about these troubling sites from Gov. Steve Beshear’s staff and the Cabinet for Health and Family Services. Several consumers had entered information on the sites and began receiving harassing calls and emails.



“We commend the Attorney General for this action and his ongoing efforts to warn and protect consumers from fraudulent websites as we continue to roll out the Affordable Care Act here in Kentucky,” Gov. Steve Beshear said. “It’s appalling to think there are individuals out there who would prey on Kentuckians during this process. Because of this, we ask everyone to be on guard and report any questionable websites or businesses.”

At the Attorney General's request, Google has also removed healthcaregov.net from its search results. That site created the misleading impression that it was a government health exchange. It also lacked clear information for consumers regarding how to access the official Kentucky exchange. In addition, a third site, healthcare.com, has made corrections to its site after being contacted by the Attorney General's office to ensure that Kentuckians will be able to link to the state's official site, kynect.ky.gov.

"I appreciate Google working with us to help protect consumers from these copycat websites," General Conway said.

The Attorney General's Office continues to work with the Office of the Kentucky Health Benefit Exchange and the Kentucky Department of Insurance to identify unfair, false, misleading and deceptive acts and practices related to the implementation of the Affordable Care Act. Consumers who are aware of questionable practices are encouraged to contact the Office of the Attorney General at 888-432-9257 or [consumer.protection@ag.ky.gov](mailto:consumer.protection@ag.ky.gov).

## **National College Sanctioned for Failing to Respond to Attorney General's Subpoena**

The Franklin Circuit Court has ordered National College to pay a civil penalty of \$1,000 per day, beginning on July 31, 2013 and continuing until National fully responds to a subpoena issued by the Office of the Attorney General. In addition to this penalty, the court ordered National's attorneys to pay \$10,000 to the Office of the Attorney General, after the court determined that National College has "repeatedly abused the legal system to obstruct a valid investigation by the Attorney General."

"I appreciate the solemn consideration the court gave to this troubling conduct," Attorney General Conway said. "National College and its lawyers have abused the legal system in an effort to delay this investigation. It is my hope that National College will stop the games, turn over all of the documents requested, and pay the fine. If National has nothing to hide – the time is now to comply with the court order."



The action follows nearly three years of litigation concerning a civil subpoena issued to National College in December 2010 by the Attorney General pursuant to an investigation under the Kentucky Consumer Protection Act of some for-profit colleges operating in the Commonwealth. National refused to respond to the subpoena and instead filed suit to block the Attorney General's investigation.

"National's actions to date have to make you wonder what they're trying to hide from investigators, their students and prospective students," Attorney General Conway said.

In March 2011, the Franklin Circuit Court ruled in the Attorney General's favor, finding that the subpoena was reasonable and supported by valid concerns under the Consumer Protection Act and that the Attorney General was lawfully acting in the public interest. National College appealed that decision to both the Court of Appeals and the Kentucky Supreme Court, but the appeals were denied. The litigation was remanded to Franklin Circuit, however, for further consideration of the scope of the subpoena.

Following numerous motions and lengthy hearings, the court determined that National College could present no legitimate argument or basis for its challenges to the subpoena, and held that National's conduct throughout the litigation "poisoned the atmosphere" and "created a climate of ill-will, personal animosity, and distrust." The court noted that targets of a lawful investigation cannot be permitted to engage in "unwarranted litigation tactics to obstruct and delay...without sanction and accountability."

In assessing the \$10,000 penalty against National College's attorneys under the Kentucky Rules of Civil Procedure, the court noted that it has never before sanctioned an attorney but that "the litigation tactics engaged in by [National's] counsel in this case have crossed the line from zealous advocacy into obstruction, delay, harassment, and an unwarranted vendetta against the Attorney General who has done nothing but attempt to fairly enforce the consumer protection laws of this state."

National College was ordered to produce all documents and information demanded by the subpoena within ten days of the entry of the Order, in which case a portion of the daily civil penalty will be suspended. The \$10,000 sanction against its attorneys, however, will not be suspended.

In a separate action, in September 2011, the Attorney General filed suit against National College in Fayette Circuit Court alleging that National violated the Kentucky Consumer Protection Act by posting false job placement rates for National graduates on its website. That litigation is currently pending. For more information on the National College lawsuit visit this link - <http://migration.kentucky.gov/newsroom/ag/nationalcollegesuit.htm>

## Franklin Circuit Judge Allows Attorney General Conway's Case Against "MERS" to Move Forward

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A Franklin Circuit Court judge has ruled that the Office of the Attorney General properly alleged violations of Kentucky's Consumer Protection Act against MERSCORP Holdings, Inc., and its wholly-owned subsidiary Mortgage Electronic Registration Systems, Inc. (MERS).

"I appreciate the court's careful consideration on this matter, and I am pleased with the result," General Conway said. "This ruling paves the way to allow my office to hold MERS accountable for its deceptive conduct, and we look forward to continuing our fight for Kentucky consumers."

MERS was created in 1995 to enable the mortgage industry to avoid paying state recording fees, to facilitate the rapid sale and securitization of mortgages, and to shorten the time it takes to pursue foreclosure actions. Its corporate shareholders include, among others, Bank of America, Wells Fargo, Fannie Mae, Freddie Mac, and the Mortgage Bankers Association. Currently, more than 6,500 MERS members pay for access to the private system. More than 70 million mortgages have been registered on the system.

In January, as a result of General Conway's investigation of mortgage foreclosure issues in Kentucky, the Attorney General's office filed a lawsuit in Franklin Circuit Court alleging that MERS had violated Kentucky's Consumer Protection Act by committing unfair or deceptive trade practices. The lawsuit alleged that since MERS' creation in 1995, members have avoided paying more than \$2 billion in recording fees nationwide. Hundreds of thousands of Kentucky loans are registered in the MERS system.

Additionally, the lawsuit alleged that MERS violated Kentucky's statute requiring mandatory recording of mortgage assignments, and that MERS had generally committed fraud and unjustly enriched itself at the expense of consumers and the Commonwealth of Kentucky. MERS had moved to dismiss all of the claims on various grounds.

On Dec. 3, the court determined that Attorney General Conway had properly alleged violations of the Consumer Protection Act, as MERS engages in trade or commerce, and that the Attorney General had sufficiently alleged unfair, misleading, or deceptive practices. The court also found that the Attorney General had sufficiently alleged its claims that MERS had committed fraud and had unjustly enriched itself at the expense of the public. The only claim dismissed by the court was the Commonwealth's allegation that MERS violated the statute requiring recording of mortgage assignments. The court did not determine whether or not MERS had violated the recording statute; the court simply found that the recording statute itself lacks an enforcement mechanism. In all, eight of the nine causes of action brought against MERS by General Conway survived MERS' motion to dismiss.

Other states have filed similar lawsuits against MERS, including Massachusetts, Delaware and New York. The Kentucky Office of the Attorney General is the first state Attorney General's office to move past the motion to dismiss stage against MERS.

The Franklin Circuit Court found that the Attorney General had sufficiently stated legal causes of action. It has not yet taken any evidence or ruled on whether MERS committed the alleged violations.

## Attorney General Conway Questions TVA About Proposed Closure of Paradise, KY Plant

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Attorney General Conway has contacted executives with the Tennessee Valley Authority (TVA) regarding its recent decision to shut down two units at its power plant in Paradise, Ky.

In his letter to the TVA, Attorney General Conway questions the transparency of the process and whether or not TVA followed through with the requirements outlined in the National Environmental Policy Act (NEPA). Among his concerns; that public meetings were only held in Tennessee, despite the impact on Kentucky and its ratepayers, and that economic and social impact studies on the affected areas were not completed as required by NEPA or, to date, they have not been shared with the public.

"As Attorney General, it is my job to speak on behalf of ratepayers and the citizens of the Commonwealth of Kentucky affected by this decision," General Conway said. "It is my fear that this decision will negatively impact the ratepayers of West Kentucky and the hardworking families who rely on power generated by the TVA."

General Conway also requested that economic impact studies and modeling data compiled by TVA be provided to the Office of the Attorney General no later than January 17, 2014.

A copy of the letter is available here: <http://goo.gl/JsQ9F9>



## American Dream Loan Provides Funding for Home Buyers Previously Shut Out of the Market



Thousands of hard-working Kentuckians will soon realize the dream of home ownership thanks to a \$5 million fund for home buyers previously unable to obtain traditional financing. Attorney General Conway helped Community Ventures Corporation (CVC) and several local banking institutions announce the funding on Dec. 16.

The American Dream Loan Fund (ADLF) was made possible, in part, thanks to \$200,000 in mortgage settlement funds made available from Attorney General Conway. General Conway secured about \$60 million on behalf of Kentuckians through the historic Mortgage Foreclosure Settlement between 49 state attorneys general and five of the country's largest banks. The investigation found that the banks had "robo-signed" documents, which is illegal. The majority of that money was allocated directly to consumers through the national settlement administrator. Consumers have received assistance with refinancing, loan write downs, debt restructuring and/or cash payments. \$19.2 million went to agencies in Kentucky that create affordable housing, provide legal relief or legal assistance to homeowners facing foreclosure, redevelop foreclosed properties and reduce blight created by vacant properties.

"I've always said that the mortgage settlement was about giving people and communities a second chance," General Conway said. "I'm thrilled that the settlement funds are being used to help hard-working Kentuckians secure safe and affordable housing, while creating stable neighborhoods for communities across Kentucky."

The ADLF is about more than providing the monetary funds to buy a home. Homeowners will also receive home-buyer education courses and be linked with one of CVC's trained counselors. Homeownership counseling reduces the risk of foreclosure and helps homeowners be successful borrowers for the duration of their home loan. The education and the one-on-one counseling set the ADLF apart from any other product available. CVC's counselors are engaged with the homebuyer from day one with the client's best interest in mind.



Five banks – Cumberland Valley National Bank, Kentucky Bank, PNC Bank, Republic Bank, and Traditional Bank – have committed \$5 million to the program, with PNC Bank also agreeing to purchase \$5 million of these loans.

Families interested in finding out if they qualify for the ADLF should contact Community Ventures Corporation, 800-299-0267 or [www.communityventurescorporation.org](http://www.communityventurescorporation.org).

# General Conway Addresses Ocwen Mortgage Servicing Wrongs Through \$2.1 Billion Joint Federal-State Settlement

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Ocwen Financial Corporation of Atlanta, Georgia, and its subsidiary, Ocwen Loan Servicing, have agreed to a \$2.1 billion dollar joint state-federal settlement with Attorney General Conway, 48 additional states and the District of Columbia, and the Consumer Financial Protection Bureau (CFPB). The settlement terms address servicing misconduct by Ocwen, and two companies later acquired by Ocwen, Homeward Residential Inc. and Litton Home Servicing LP. Ocwen specializes in servicing high-risk mortgage loans.

According to a complaint filed in the U.S. District Court for the District of Columbia, the misconduct resulted in premature and unauthorized foreclosures, violations of homeowners' rights and protections, and the use of false and deceptive documents and affidavits, including "robo-signing."

The settlement with the nation's fourth largest mortgage servicer is the result of a massive civil law enforcement investigation and initiative that includes state attorneys general, state mortgage regulators and the CFPB. Through a court order, the settlement holds Ocwen accountable for past mortgage servicing and foreclosure abuses, provides relief to homeowners, and protects consumers by preventing future fraud and abuse.

"What we found in the Ocwen case is similar to a lot of the problems we saw in our other mortgage servicer enforcement cases," Attorney General Conway said. "This is part of our ongoing civil law enforcement effort to hold servicers, including Ocwen, accountable and ensure that they treat borrowers fairly."

Under the settlement, Ocwen agreed to \$2 billion in first-lien principal reduction and \$125 million in cash payments to borrowers on nearly 185,000 foreclosed loans. In Kentucky, Ocwen will provide troubled borrowers with an estimated \$7.8 million in first-lien principal reductions, and 1,499 loans will be eligible to receive a cash payment. The payment amount, which is contingent on the number of consumers who submit valid claims, is projected to exceed \$1,000.

Joseph A. Smith, Jr., monitor of the National Mortgage Settlement, will also oversee the Ocwen agreement's implementation and compliance through the Office of Mortgage Settlement Oversight.

The National Mortgage Settlement, a three-year agreement reached in 2012 with the attorneys general of 49 states and the District of Columbia, the federal government, and five mortgage servicers (Ally/GMAC, Bank of America, Citi, JPMorgan Chase and Wells Fargo), has so far provided more than \$51 billion in relief to distressed homeowners and created significant new servicing standards. The U.S. District Court in Washington, D.C. entered the consent judgments on April 5, 2012.

The Ocwen settlement does not grant immunity from criminal offenses and would not affect criminal prosecutions. The agreement does not prevent homeowners or investors from pursuing individual, institutional or class action civil cases. The agreement also preserves the authority of state attorneys general and federal agencies to investigate and pursue other aspects of the mortgage crisis, including securities cases.

## Ocwen Agreement Highlights

- ▶ Ocwen commits to \$2 billion in first-lien principal reduction.
- ▶ Ocwen pays \$125 million cash to borrowers associated with 183,984 foreclosed loans
- ▶ Homeowners receive comprehensive new protections from new mortgage loan servicing and foreclosure standards.
- ▶ An independent monitor will oversee implementation of the settlement to ensure compliance.
- ▶ The government can pursue civil claims outside of the agreement and any criminal case; borrowers and investors can pursue individual, institutional or class action cases regardless of the agreement.
- ▶ Ocwen pays \$2.3 million for settlement administration costs.

The final agreement, through a consent judgment, will be filed in U.S. District Court in Washington, D.C. If approved by a judge, it will have the authority of a court order.

Because of the complexity of the mortgage market and this agreement, which will span a three-year period, in some cases Ocwen will contact borrowers directly regarding principal reductions. However, borrowers should contact Ocwen to obtain more information about principal reductions and whether they qualify under terms of this settlement. A settlement administrator will contact qualified borrowers associated with foreclosed loans regarding cash payments.

More information will be made available as the settlement programs are implemented. For more information on the agreement visit: <http://goo.gl/UX7VVb> or <http://goo.gl/cbme94>. Consumers with questions for Ocwen may dial 1-800-337-6695, and the email address is [ConsumerRelief@Ocwen.com](mailto:ConsumerRelief@Ocwen.com).

For a list of frequently asked questions, please visit <http://goo.gl/tDbUPw>.

## **Deadline Approaching for Consumers to Participate in Affinion Restitution Program**

In October, Attorney General Conway, along with 46 other state Attorneys General, announced a \$30 million settlement with the negative option marketer Affinion and its subsidiaries, Trilegiant and Webloyalty. As part of the settlement, Affinion established a fund of approximately \$19 million to provide refunds to some consumers who received unauthorized charges for Affinion's programs. Nearly 2,100 Kentucky consumers should have received notices via email or the U.S. Postal Service regarding this settlement.

The notices contain important documents that must be completed and returned by any consumer wishing to recover restitution. Consumers should be diligent in checking for these notifications. If a consumer receives an eligibility notice, then he or she will have the opportunity to join the settlement. Consumers who decide to participate in the settlement should follow the proper instructions contained in the correspondence and return the required documents.

There is a slight chance that a consumer who has been improperly billed by Affinion will not receive an eligibility notice. Consumers should check their credit card and bank account statements for any improper charges that may have been made by Affinion or any of Affinion's membership programs. A complete list of the programs can be found at <http://goo.gl/OJHTZE>.

Consumers who do not receive an eligibility notice, but believe they were improperly charged by Affinion or its marketing partners, can file consumer complaints with the Kentucky Office of the Attorney General online at <http://ag.ky.gov> or by calling (888) 432-9257.

Those complaints should be filed no later than Jan. 17, 2014. Consumers receiving notices by mail and email will have 90 days to file their claims with Affinion.

An example of the letter titled "ELIGIBILITY NOTICE – MARKETING SETTLEMENT RESITUTION PROGRAM" can be found at <http://goo.gl/fvmJk5>.

An example of the email from the "Marketing Settlement Restitution Program" can be found at <http://goo.gl/mJuQnV>.



## **Attorney General Conway Appeals Approval of Kentucky Power's Acquisition of West Virginia Coal Plant to Replace Kentucky's Big Sandy Facility**

Attorney General Conway has appealed the Oct. 7, 2013 decision of the Kentucky Public Service Commission allowing Kentucky Power Company to purchase a 50 percent interest in a West Virginia coal plant instead of retrofitting the Big Sandy facility in Louisa, Ky. The appeal to the Franklin Circuit Court filed on Dec. 4 seeks to vacate and set aside the Commission's findings on multiple legal grounds.

"The recent ruling by the Kentucky Public Service Commission approving this transaction will place more than a half a billion dollars into Kentucky Power's rate base and will ultimately raise consumers' electric rates by more than 20 percent," General Conway said. "It will also transfer energy production to a neighboring state and leave Kentucky consumers paying the bill. That's just not right."

On Oct. 7, 2013, the Kentucky Public Service Commission approved Kentucky Power's proposal to purchase from its unregulated affiliate, Ohio Power Co., a 50 percent interest in the Mitchell Generating Station, located in Moundsville, West Virginia, at an estimated cost of \$536 million and accepted the terms of a partial settlement and stipulation to which the Attorney General did not join.

In its findings, the PSC accepted Kentucky Power's assertion that the Mitchell Plant acquisition was less costly than retrofitting Kentucky Power's Big Sandy coal-fired unit with environmental controls. The Commission declined to follow its administrative counterpart – the Virginia State Corporation Commission – that declined to approve a related transaction by Appalachian Power Company because the company failed to demonstrate reasonable market alternatives to support its claim that a 50 percent interest in Mitchell was the least-cost option for consumers.

In his appeal to the Franklin Circuit Court, General Conway asserts that the findings of the Commission were unreasonable and unlawful because they relied on evidence presented by Kentucky Power and its corporate parent company that could not be independently verified.

"The analysis used by Kentucky Power and accepted without independent verification by the Commission is simply an apples to oranges comparison and is not a reliable basis for the Commission's decision," General Conway said. "The Commission should seek additional, independent information, if it is going to raise electric rates for consumers and eliminate Kentucky jobs."

In addition, General Conway asserts that the Commission failed to consider the economic feasibility of Kentucky Power's plan and neglected the public policy interests of Kentucky, as expressed by the General Assembly. In the complaint filed with the Franklin Circuit Court, General Conway points out that the General Assembly and Kentucky courts have held that the use of Kentucky coal and the continuation of jobs and other economic benefits constitute a legitimate government interest.

## Grand Jury Indicts Bell County Clerk



*Rebecca Blevins*



*Kayla Carnes*



*Connie Watkins*

A Bell County grand jury has indicted the Bell County clerk and two deputy clerks following an investigation by General Conway's Department of Criminal Investigations (DCI).

On Dec. 11, the grand jury returned indictments on the following individuals:

- ▶ 45-year-old Rebecca Blevins, Bell County clerk. Blevins is charged with two counts of abuse of public trust less than \$10,000; one count of abuse of public trust over \$10,000 but less than \$100,000; and one count of criminal possession of a forged instrument in the second degree.
- ▶ 23-year-old Kayla Carnes, Bell County deputy clerk. Carnes is charged with five counts of criminal possession of a forged instrument in the second degree.
- ▶ 40-year-old Connie Watkins, Bell County deputy clerk. Watkins is charged with one count of criminal possession of a forged instrument in the second degree.

According to the indictment, from 2009 to 2011, Bell County Clerk Rebecca Blevins kept tax refunds from individuals who bought vehicles outside of Kentucky and then registered them in Bell County. Additionally, Blevins, and deputy clerks Kayla Carnes and Connie Watkins, are accused of forging registration records on multiple vehicles.

The Office of the Attorney General received the case following an audit by the Kentucky State Auditor's Office. DCI investigators arrested the employees in November.

The Bell County grand jury did not indict 55-year-old Flora Ferrell, a Bell County deputy clerk who was also arrested in November as a result of the investigation.

34th Circuit Commonwealth's Attorney Allen Trimble has been appointed as a special prosecutor for this case.

## General Conway Announces Two Indictments Involving Child Porn

A Louisville, Ky. man has been indicted following an investigation by Attorney General Conway's Cybercrimes Branch. On Dec. 18, a Jefferson County grand jury indicted 62-year-old Kerry Trinkle on four counts of possession of matter portraying a sexual performance by a minor and four counts of distribution of matter portraying a sexual performance by a minor.

On Sept. 13, a search warrant was executed at Trinkle's Louisville business, Jackson TV & Electronics, following an investigation that began in August by General Conway's Cybercrimes investigators. A forensic exam on computers taken from Trinkle's business discovered more than 13,000 images depicting the sexual abuse of children.

On Dec. 20, a Rowan County grand jury indicted 32-year-old Travis Lee on 12 counts of possession of matter portraying a sexual performance by a minor.

On Sept. 6, a search warrant was executed at Lee's Morehead, Ky. home following an investigation that began in August by General Conway's Cybercrimes investigators. A forensic exam on Lee's computer discovered more than 2,800 images depicting the sexual abuse of children.

Possession of matter portraying a sexual performance by a minor and distribution of matter portraying a sexual performance by a minor are Class D felonies. Each count is punishable by one to five years in prison.



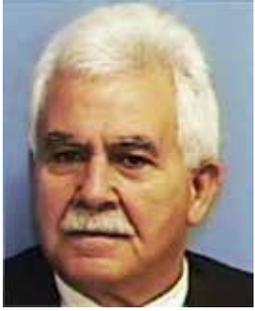
*Kerry Trinkle (photo: WDRB.com)*

Since its creation in June of 2008, General Conway's Cybercrimes Unit has launched 375 child pornography investigations and seized more than 422,600 child pornographic images and videos from the Internet. The unit is also a member of the Internet Crimes Against Children (ICAC) Task Force.

For additional information on cybersafety in Kentucky, visit General Conway's Cybersafety Page at <http://ag.ky.gov/cybersafety/>. To report cyber abuse, visit the CyberTipline or call 1-800-843-5678.

## **General Conway Announces Indictment of Louisville Physician**

A Louisville physician has been charged with multiple counts of unlawful distribution of controlled substances, healthcare fraud and money laundering. General Conway made the announcement jointly with David Hale, United States Attorney for the Western District of Kentucky, on Dec. 4. The case was investigated by the Office of the Attorney General's Medicaid Fraud and Abuse Control Division, the U.S. Drug Enforcement Agency (DEA), Federal Bureau of Investigation (FBI), and the Louisville Metro Police Department (LMPD).



According to the 14-count indictment, Dr. George Kudmani, 68, operated an obstetrician/gynecological medical practice located in Louisville, Ky. The practice did not employ any other individual with medical training. On average, Dr. Kudmani would see more than 35 patients per day, with a typical first-time patient paying \$75 for a gynecological exam. On subsequent visits, the patient would typically pay \$35 in cash and receive a Schedule II-V controlled substance prescription without a physical examination.

The indictment charges Dr. Kudmani with 11 counts of knowingly and intentionally distributing and dispensing controlled substances that were not for a legitimate medical purpose and beyond the bounds of a professional medical practice between Jan. 2009 and Sept. 2012. The controlled substances allegedly prescribed include Oxycodone, Alprazolam, Clonazepam, Hydrocodone, Phentermine and Carisoprodol.

Additionally, Dr. Kudmani is charged with two counts of health care fraud for allegedly submitting claims for medically unnecessary services and for writing prescriptions for medically unnecessary controlled substances. The fraud charges state that Dr. Kudmani would perform medically unnecessary services and bill health care benefit programs for reimbursement. The charges also state that Dr. Kudmani knew patients would have the prescriptions filled at pharmacies and that the pharmacies in turn submitted claims to health care benefit programs for reimbursement.

Dr. Kudmani is also charged with one count of money laundering for buying a 2012 Honda Accord with \$15,000 in cash and a \$5,971 check using money from an unlawful activity.

This case is being prosecuted by United States Attorney's Office. If convicted, Dr. Kudmani faces a maximum potential penalty of 230 years in prison, a more than \$10 million fine, and three years of supervised release.

## **General Conway Asks Congress to Fund Anti-Human Trafficking Programs**

Attorney General Conway and 46 other state and territorial attorneys general have sent a letter asking Congress to fund the Trafficking Victims Protection Reauthorization Act (TVPRA). This funding would go toward programs that fight human trafficking in the United States and abroad.

"Human trafficking is modern-day slavery," General Conway said. "It's happening across the country, including right here in Kentucky. This is mission-critical funding necessary to better protect victims of human trafficking and prosecute traffickers."

Established in 2000, the TVPRA greatly increased the country's efforts to protect domestic minor victims of human trafficking, encourage further education and awareness about human trafficking, provide prosecutors with more effective tools for prosecuting offenders and fund task forces that battle trafficking each day. The original legislation established human trafficking as a federal crime.

According to the U.S. Department of Health and Human Services, after drug dealing, trafficking of humans is tied with arms dealing as the second-largest criminal industry in the world, generating about \$32 billion each year.

Many victims of human trafficking are forced to work in prostitution or other areas of the sex industry. Trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work and migrant agricultural work.

According to a study of U.S. Department of Justice human trafficking task force cases, 83 percent of sex trafficking victims identified in the United States were U.S. citizens. On average, children in the U.S. are only 12-14 years old when they first become victims of sex trafficking.

A copy of the Dec. 17 letter from the 47 attorneys general is available here: <http://goo.gl/03vLwA>.