



KENTUCKY

General News



May 2012

Attorney General's Office Distributes First Restitution Checks to Eastern Livestock Victims

Kentucky farmers who lost nearly \$1 million in a check-kiting scheme by Eastern Livestock have received their first restitution checks. Staff members from Attorney General Conway's office distributed \$300,000 on May 12, 2012 to more than 170 farmers. Additional restitution payments are expected in the coming months.

The Office of the Attorney General identified 173 victims from the Metcalfe County auction that are entitled to the restitution.

"Seeking restitution for Kentucky farmers, many of whom have struggled financially in the wake of Eastern Livestock's collapse, has been a top priority of mine," General Conway said. "I am pleased that we were able to recover nearly \$1 million on behalf of our farmers."

Former Eastern Livestock Chief Executive Officer and founder, 71-year-old Thomas "Tommy" Gibson, and former Chief Financial Officer, 58-year-old Steve McDonald, each pled guilty to all counts against them. The Commonwealth has recommended a 10-year prison sentence for both, concurrent with any federal sentence received.

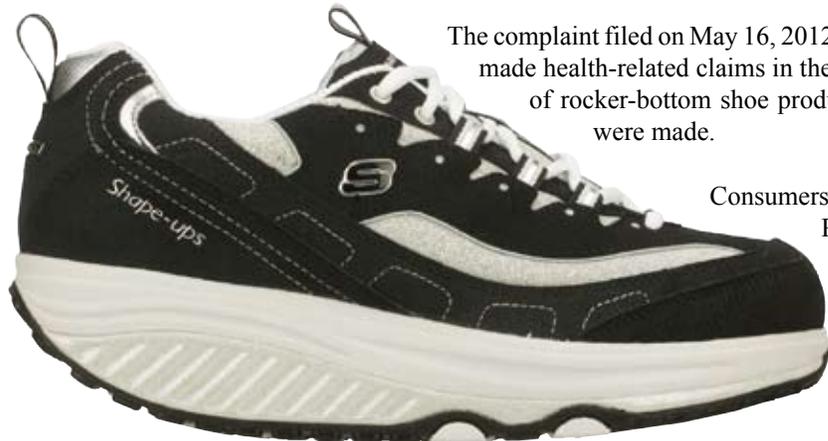
Eastern Livestock accountant 43-year-old Darren Brangers of Louisville and former Eastern Livestock affiliate 48-year-old Grant Gibson of Lanesville, Ind. also pled guilty to facilitating the operations of the criminal syndicate run by Tommy Gibson and McDonald. The Attorney General recommends a five-year sentence for each that would be probated if restitution is made. McDonald, Brangers and Grant Gibson face sentencing on June 12, 2012, while Tommy Gibson will be sentenced on June 2, 2012.



Consumers Who Purchased Skechers Rocker-Bottom Shoes to Receive Partial Refunds

Kentucky joined 43 other states, the District of Columbia and the Federal Trade Commission in reaching a \$45 million settlement with Skechers USA to resolve allegations of deceptive advertising. Under the settlement, up to \$40 million is being allocated for consumer refund money to be paid back to people who purchased Skechers Shape-ups, Tone-ups and Resistance Runners.

"Skechers has made millions from a deceptive advertising campaign that couldn't deliver on its promises to consumers," General Conway said. "I am pleased that a settlement has been reached and that it will prevent Skechers from engaging in these types of illegal marketing practices in the future."



The complaint filed on May 16, 2012 in Franklin Circuit Court by General Conway alleges that Skechers made health-related claims in the marketing, packaging, advertising, offering, and selling of its line of rocker-bottom shoe products that were not adequately substantiated at the time the claims were made.

Consumers who purchased Shape-Ups, Tone-Ups, or the Skechers Resistance Runner should go to www.ftc.gov/skechers or call 1-866-325-4186 to determine if they are eligible for a partial refund.

Potential refunds for eligible consumers vary from \$20 to \$80 per pair of shoes.

Former Social Worker Pleads Guilty to Falsifying Child Abuse and Neglect Reports

Attorney General Conway announced the guilty plea on May 22, 2012 of a former state social worker to nine felony counts of tampering with public records. Sixty-one-year-old Margaret “Geri” Murphy entered the guilty plea in Anderson Circuit Court in connection with her role as a front-line worker investigating allegations of child abuse and neglect in Anderson County.

In all nine investigations charged in the indictment, Murphy documented that child abuse or neglect was unsubstantiated. In pleading guilty, Murphy admitted that she falsified her reports in all nine of the investigations conducted between April 2006 and October 2010.

“Margaret Murphy had a responsibility to actually investigate allegations of child abuse or neglect assigned to her, to substantiate those that merited it and take action to protect children who are living in abusive homes,” General Conway said. “Murphy not only failed these innocent children, she failed her fellow social workers who work tirelessly to protect our youngest and most vulnerable citizens.”

In one false entry, Murphy stated that a man alleged to have sexually abused a seven-year-old denied the abuse during an interview with police and passed a polygraph, when in fact the man was not interviewed nor did he take a polygraph examination.

Prosecution of this case was handled by General Conway’s Office of Special Prosecutions at the request of Laura Donnell, Commonwealth’s Attorney for the 53rd Judicial Circuit representing Anderson, Shelby and Spencer counties. The Attorney General’s Department of Criminal Investigations (DCI) began investigating the allegations against Murphy after receiving a complaint from a citizen who had Murphy assigned to a court case involving her family. Sentencing is set for 9 a.m. on July 24, 2012.

More information — <http://goo.gl/rvu07>

Attorney General’s Medicaid Fraud Recoveries Top \$230 Million



A series of settlements in May with the nation’s biggest drug manufacturers pushed Attorney General Conway’s Medicaid fraud recoveries since he took office in 2008 to more than \$230 million. Settlements announced in May with Merck, Forest Pharmaceuticals Inc. and Abbott Laboratories resulted in the recovery of \$10.6 million for the Kentucky Medicaid program. The settlements reached with Merck and Forest were the latest in a number of settlements in so-called Average Wholesale Price (AWP) lawsuits filed by the Office of the Attorney General against 47 of the nation’s largest pharmaceutical companies.

The lawsuits allege that the defendant drug companies published false, inflated and deceptive AWP’s for their drugs, which did not bear any relationship to the real prices that they actually charged their customers.

“Kentucky taxpayers should not have to foot the bill for inflated drug prices,” General Conway said. “I am pleased that we’ve been able to recover almost a quarter of a billion dollars for a vital state program and for taxpayers.”

May Settlements:

- ▶ Forest \$1.75 million (AWP) — <http://bit.ly/M3Zsmn>
- ▶ Merck \$6 million (AWP) — <http://bit.ly/KLYvQa>
- ▶ Abbott \$2.9 million for illegal marketing of the drug Depakote — <http://bit.ly/Keziv7>

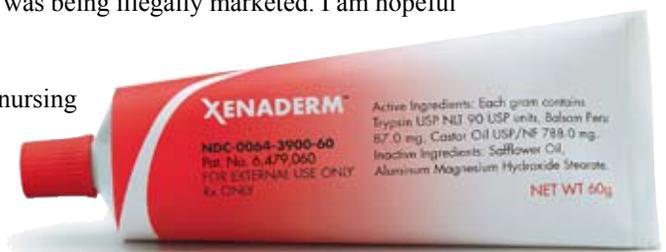
Kentucky to Join \$90 Million Medicaid Suit against Healthpoint, Ltd.

Kentucky’s motion to intervene in a \$90 million whistleblower lawsuit against Healthpoint, Ltd. in United States District Court in Massachusetts was granted on May 16, 2012. Kentucky is one of 13 states that moved to join the lawsuit claiming that Healthpoint caused Medicaid to pay \$90 million in claims for the drug Xenaderm despite the drug’s ineligibility for coverage.

“Kentucky’s Medicaid program paid more than \$1 million for a medication that was being illegally marketed. I am hopeful we can recover this money on behalf of taxpayers,” General Conway said.

The complaint further alleges that Healthpoint actively marketed Xenaderm to nursing homes as a Medicaid-eligible drug.

The Attorney General’s Tip Line for reporting allegations of Medicaid fraud is 1-877-228-7384.



Attorney General Conway Urges Drivers to Stop the Texts

Sixty percent of young adult drivers (16-24) have texted while driving according to a national survey released by the Ad Council. On May 1, 2012 Attorney General Conway joined his fellow state Attorneys General, the National Highway Traffic Safety Administration (NHTSA) and the Ad Council in support of the inaugural Stop the Texts Day.

To educate young adult drivers about the dangers of texting while driving, General Conway, NHTSA, state Attorneys General, Consumer Protection Agencies and the Ad Council revealed new public service advertisements (PSAs) featuring NASCAR driver Kasey Kahne. NHTSA reports that distracted driving is the number one killer of American teens.

“In 2010, more than 3,000 people were killed and an additional 416,000 injured nationally due to distracted driving,” General Conway said. “I want Kentuckians to know that they are risking their lives and the lives of others when they text and drive. It is also illegal.”

Kentucky’s law (KRS 189.292) prohibiting texting and driving became effective in July of 2010. The law also prohibits persons under age 18 from using a personal communication device while driving. According to Kentucky State Police, there were 312 citations issued in 2011 for distracted driving. Fines for distracted driving citations are \$25 (first offense) and subsequent offenses \$50, plus court costs.

More information — <http://bit.ly/KD2ZoK>



Attorney General Conway Seeks Increase in Crime Victims Fund Cap

At a time of funding cuts and strained resources, Attorney General Conway is urging Congress to increase the cap on the Crime Victims Fund to at least \$1 billion so victims can access the services they need. General Conway was among 51 state and territorial Attorneys General to sign a letter delivered to Capitol Hill on May 8, 2012 from the National Association of Attorneys General.

The Crime Victims Fund was created as part of the Victims of Crime Act of 1984 (VOCA) and is funded entirely through collections from criminal fines, special assessments and other penalties paid by federal criminal offenders. These non-taxpayer revenues have already been collected and deposited into the Fund, with a projected \$7.4 billion balance for fiscal year 2012.

“Now is the time to raise the cap on the Crime Victims Fund and ensure that vital services are provided to those who have suffered as a result of domestic violence, child sexual abuse, elder abuse and other violent crimes,” General Conway said.

Every year, state VOCA victim assistance grants provide vital direct assistance that supports more than 4,000 agencies nationwide in providing services to an average of 3.7 million crime victims, including those from assaults, robbery, gang violence, domestic violence and survivors of terrorist acts. VOCA helps victims with financial assistance for medical care, mental health counseling, lost wages and funeral and burial costs.

A copy of the NAAG letter can be found at: http://www.naag.org/sign-on_archive.php



CYBERCRIMES

Lexington Man Arrested on Child Pornography Charges

General Conway's Cybercrimes investigators arrested a Lexington man on May 16, 2012 for possession of child pornography. Forty-one-year-old Eliazar Rincon was arrested at his Lexington home with the assistance of Lexington Metro Police following the execution of a search warrant. Rincon is charged with four counts of possession of matter portraying a sexual performance by a minor, a Class D felony.

The charges stem from an undercover investigation by General Conway's Cybercrimes Unit that began on April 11, 2012.



Harlan County Jury Recommends 15-Year Prison Sentence in Child Pornography Case

A Harlan County jury convicted a 26-year-old Evarts, Ky. man for possession and distribution of child pornography and recommended he serve 15 years in prison. Clarence Curtis was found guilty on two counts of distribution of matter portraying a sexual performance by a minor and 13 counts of possession of matter portraying a sexual performance by a minor.

The Office of Harlan County Commonwealth's Attorney Henry Johnson handled the prosecution of the case. The charges against Curtis are the result of an undercover investigation by Attorney General Conway's Cybercrimes Unit that began on April 13, 2010.

"I am proud of the work my Cybercrimes investigators do every day to make the Internet a safer place for Kentucky kids," General Conway said. "I also appreciate the assistance we received in this matter from the Harlan County Sheriff's Department and local prosecutors."

Curtis will be formally sentenced on July 19, 2012 at 9 a.m.



Since its creation in June of 2008, General Conway's Cybercrimes Unit has launched nearly 270 child pornography investigations and seized more than 300,000 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.