



KENTUCKY

General News

July 2010

Attorney General Conway Issues Price-Gouging Warning

Attorney General Jack Conway has warned Kentucky businesses against price-gouging in the wake of severe thunderstorms and deadly flash flooding that occurred in July. General Conway issued the warning after Gov. Steve Beshear declared a state of emergency for Kentucky and signed an executive order to implement the state's price-gouging statutes in the wake of the severe weather.

"Gov. Beshear and I both want to ensure that Kentuckians who are suffering as a result of these deadly storms are not victimized a second time by unscrupulous businesses," General Conway said.

The emergency declaration, which remains in effect for 30 days, empowers the Attorney General to investigate and prosecute, where appropriate, those who sell gasoline, generators, building supplies, chain saws, hotel rooms and other necessary goods and services at an exorbitant price during a time of disaster.

Anyone with specific information regarding possible price-gouging is encouraged to contact the Office of the Attorney General at 1-888-432-9257 or file a complaint at ag.ky.gov.

More information — <http://tinyurl.com/2f299hs>



Photo: Tamara Evans, WKYT

Storm Victims Could Be Targeted by Scammers

Kentucky's storm victims could be the target of fly-by-night repair crews and other scammers who prey on people's misfortune. Common natural disaster scams include outright fraud, shoddy construction, charity scams, impersonating officials and loan scams.

Storm Repair Tips for Consumers

- ▶ Never pay in advance for labor.
- ▶ If possible, use local, reputable contractors for repairs.
- ▶ Ask if the contractor is licensed, bonded (if required by the city or county) and insured.
- ▶ Check unknown companies out with the Better Business Bureau (Lexington/Eastern KY 1-800-866-6668 or Louisville/Western KY 1-800-388-2222) or call General Conway's Office of Consumer Protection at 1-888-432-9257 to see if information is available about the company.
- ▶ Demand a written contract. If possible, get estimates from several contractors.
- ▶ Be suspicious of unfamiliar, out-of-state vehicles and those who offer repair work at unreasonably low prices.

More information — <http://tinyurl.com/24mgxhl>

Attorney General's Office to Host Booth at State Fair

Attorney General Conway and his staff will educate Kentuckians on Internet safety and the effort to combat prescription drug abuse across the Commonwealth at this year's Kentucky State Fair. The Attorney General's office joins other law enforcement agencies who have been given complimentary booths at the state fair to highlight important safety initiatives.

The booth will feature handouts, give-away items and a demonstration of privacy settings on Facebook or MySpace. There will also be a daily prize drawing for a color wireless printer provided by the Office of the Attorney General's CyberSafeKY partner ConnectKentucky, courtesy of Lexmark.

Make sure to stop by the Attorney General's booth in the Kidz Biz wing at the Kentucky Fair and Exposition Center August 19-29.



*Kentucky Attorney
General
Jack Conway*

Kentucky Sees Spike in Sweepstakes and Lottery Scams

Attorney General Conway warns consumers that sweepstakes and lottery scams are on the rise in Kentucky. General Conway's Office of Consumer Protection has received complaints from a number of consumers who have lost thousands of dollars to these types of scams. A Taylorsville woman reported losing \$1,500 to American Publisher's Clearing House to pay taxes on her winnings, and a Somerset caller reported losing nearly \$9,500 to what appeared to be a Las Vegas-based sweepstakes company.

"Consumers should disregard calls or notices from sweepstakes or lottery companies asking for upfront money," General Conway said. "Once you wire money, particularly to a destination out of state or out of the country, it is very difficult and often impossible to recover the funds. Consumers should remember the old adage 'if it sounds too good to be true, it probably is.'"

General Conway says Jamaica appears to be the hub for many of these types of sweepstakes and lottery scams. Consumers should also be leery of calls from an 876 area code, as many are from a bogus sweepstakes promoter.

Victims and consumers wishing to report bogus sweepstakes and lotteries can contact the Attorney General's office at 888-432-9257 or visit ag.ky.gov.

More information — <http://tinyurl.com/2g8kayp>



Attorney General's Investigation Prompts Removal of Lead-Tainted Jewelry in Kentucky

Rainbow Stores in Louisville and Lexington removed brightly colored metal charms and jewelry from its store shelves after an investigation by General Conway's Office of Consumer Protection revealed high levels of lead.

Working with the Consumer Product Safety Commission (CPSC), the Kentucky Department for Public Health and the Kentucky Injury Prevention and Research Center, General Conway's office obtained samples and ordered tests of the jewelry after the California Attorney General's office issued a Notice of Violation to Rainbow for selling jewelry contaminated with lead.

"I've launched this investigation to help protect Kentucky kids from dangerous toys and jewelry," General Conway said. "If parents believe their children may have been exposed to the jewelry, they should contact their local health departments or pediatrician."

Laboratory tests obtained by the Attorney General's office confirmed that many of the brightly colored heart pendants and bracelets were greater than 80% lead. The Kentucky samples showed the metal charms and jewelry contained as much as 894,962 parts per million (ppm) of lead, which is more than 2000 times the CPSC's recommended maximum acceptable level of 300 ppm for lead in children's jewelry. Rainbow has pulled these items from its stores and has assured the Attorney General's office the items will not be sold in Kentucky.

For more information on the safety of children's jewelry, go to <http://www.cpsc.gov/onsafety/?s=metal+jewelry>. For a full list of recalled products, go to www.cpsc.gov or visit General Conway's KY Kids Alert section available on his website.



Kentucky to Participate in \$75.3M Settlement with Johnson & Johnson Subsidiary

Attorney General Conway announced on July 28 that Kentucky has signed onto a \$75.3 million national settlement with Ortho-McNeil-Janssen Pharmaceuticals, Inc., a subsidiary of global pharmaceutical manufacturer Johnson & Johnson over allegations the company illegally and improperly marketed the anti-seizure drug Topamax. As a result of the settlement, Kentucky's state and federal portion is \$1,967,191 which represents double the amount that Kentucky Medicaid expended for prescriptions written as a result of the company's illegal off-label marketing practices. Kentucky's state portion of the settlement is \$610,165.

"I am pleased that a settlement has been reached to put a stop to Ortho-McNeil Janssen's off-label marketing of its drug Topamax," General Conway said. "This should serve as a warning to other pharmaceutical companies that fraud and abuse of the Medicaid Program will not be tolerated."

The settlement resolves claims brought by the federal government, the Kentucky Attorney General and other participating states that Ortho-McNeil-Janssen knowingly engaged in a company-wide scheme to illegally and improperly market the drug Topamax for uses that had not been approved by the federal Food and Drug Administration ("FDA"). The FDA only approved Topamax for use in treating epileptic seizures and to prevent migraine headaches. Despite these limited approvals, Ortho-McNeil-Janssen illegally marketed Topamax to physicians for use in the treatment of a variety of other unapproved psychiatric conditions, including, but not limited to, bipolar disorder and drug and alcohol dependency.

Since Attorney General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered or been awarded more than \$125 million for the state and federal Medicaid programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers.

More information — <http://tinyurl.com/266tfm2>

Attorney General's Probe Results in Indictment of Mine Safety Analyst

A former Kentucky mine safety analyst is under indictment following an investigation by Attorney General Conway's Department of Criminal Investigations (DCI) with assistance from the Department of Natural Resources. A Franklin County grand jury indicted 50-year-old Betty Sue Whitaker of Hazard on 28 counts of tampering with public records following the investigation. The charges carry a maximum penalty of up to 20 years in prison.

"It is imperative that we protect the integrity of the permit licensing and inspection processes in state government," General Conway said. "The actions of Ms. Whitaker could have lead to unsafe conditions for Kentuckians who work in our mines. That is not acceptable."

The indictment alleges that between October of 2007 and December of 2008, Whitaker, while employed with the Office of Mine Safety and Licensing, falsified multiple analyst reports pertaining to several different mines. Her actions caused the reports to be fraudulently entered as a matter of record with the Kentucky Department for Natural Resources, Office of Mine Safety and Licensing, in Franklin County.

General Conway's Office of Special Prosecutions is prosecuting the case. Whitaker will be arraigned at 9 a.m. on August 6, 2010 in Franklin Circuit Court, Div. 1.

More information — <http://tinyurl.com/2dk89ux>

Five Indicted in Bribery Scheme

A Pulaski County grand jury has indicted five people in connection with a plot to allegedly bribe that county's Commonwealth's Attorney. The case is being prosecuted by General Conway's Office of Special Prosecutions.

Sixty-four-year-old Everett Hyden, 63-year-old Noble Hampton, 44-year-old Virginia "Carol" Hampton, 62-year-old Walter Creekmore and 44-year-old Darmus "Bubby" Dalton were indicted on one count each of complicity to bribe a public servant. The charge carries up to 10 years in prison for each defendant. The grand jury additionally indicted Dalton for being a persistent felony offender. Dalton faces up to 20 years in prison if convicted.

The indictment and related documents filed in Pulaski Circuit Court allege that the five acted together between May 18 and June 10 of this year to collect and deliver \$20,000 to the Commonwealth's Attorney as a bribe to secure the release of a twice-convicted narcotics trafficker. Upon being initially approached, Eddy Montgomery, Commonwealth's Attorney for the 28th Judicial Circuit, immediately notified police, who began a covert investigation. Somerset Police Department investigated the case.

An indictment is an accusation only. All defendants are presumed innocent unless and until proven guilty.

Settlement Reached to Return Indian Head Rock to Kentucky

Attorney General Conway and the Kentucky Heritage Council/State Historic Preservation Office jointly announced on July 8, 2010 that a settlement had been reached to return the historic Indian Head Rock to Kentucky. An Agreed Order between the Commonwealth of Kentucky and the city of Portsmouth, Ohio, its former mayor Gregory Bauer, Steven Shaffer and David Vetter, dismissing the civil suit, was filed today in federal district court.

As part of the settlement, the city of Portsmouth will relinquish custody and control of the artifact and permit its transport to a location designated by the Kentucky Heritage Council, an agency responsible for the identification, protection and preservation of the state's archaeological and historic resources.



“Even though Indian Head Rock was unlawfully removed from a registered state archaeological site in the Ohio River, I am pleased that this protected antiquity is being returned to Kentucky,” General Conway said. “I appreciate the City of Portsmouth for working with us to settle this matter outside of the courtroom. I am also grateful to the volunteers who have stepped forward to return Indian Head Rock to Kentucky at no expense to taxpayers.”

No date has been set for the rock's return.



Former Frankfort Nurse Indicted for Neglect of Nursing Home Resident

Attorney General Conway has announced the indictment of a former nurse at Golden Living Center in Frankfort, Ky in connection with the neglect of a resident there in December of 2007.

A Franklin County grand jury indicted 46-year-old Elizabeth Elaine Royse, formerly of Frankfort, on a charge of knowing neglect of an adult under KRS 209.990(2). Royse allegedly knew that a resident in her care was at risk for dehydration and she knowingly neglected to execute a number of her duties – including following through with various orders, monitoring the resident's fluid intake, and adequately supervising the nursing assistants. This neglect led to the resident becoming very dehydrated and hospitalized.

The Cabinet for Health and Family Services conducted a survey in 2007, which led to the facility receiving a regulatory Type A citation. An investigator from General Conway's Office of Medicaid Fraud and Abuse Control investigated the criminal case.

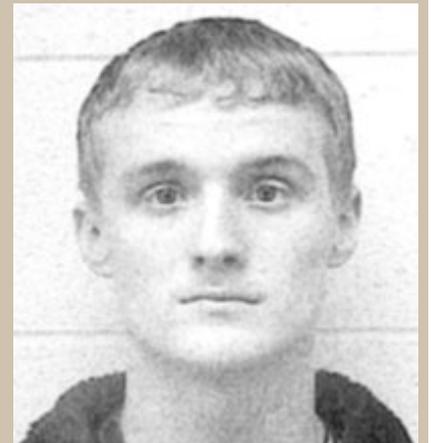
Prosecutors from the Attorney General's Office of Medicaid Fraud and Abuse Control are handling the prosecution of this case.

Attorney General's Office Files Motion to Revoke Probation of Former Community Presence Caregiver

Attorney General Conway and his Office of Medicaid Fraud and Abuse Control are seeking to put a former Community Presence caregiver charged in connection with the death of a mentally handicapped adult back behind bars. The Attorney General's office has requested Carter Circuit Court revoke probation for Branden Starostka, of Grayson, following a new conviction of unlawful transaction with a minor.

Starostka was convicted last year in connection with the 2007 death of Michael Price, a mentally handicapped adult who resided at Community Presence. Starostka watched television and failed to intervene when a co-worker laid on the victim's back for more than 30 minutes causing the victim to stop breathing. Starostka was sentenced to five years in the Kentucky Department of Corrections last year for wanton abuse of a vulnerable adult and tampering with physical evidence but was granted probation last October.

A bench warrant has been issued for Starostka's arrest.



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