



KENTUCKY

General News

October 2009

Attorney General Conway's Prescription Drug Diversion Task Force Participates in Historic Drug Sweep

Attorney General Jack Conway's Prescription Drug Diversion Task Force was among the agencies to participate in the largest drug sweep operation in Kentucky's history. A total of 518 felony arrest warrants were issued, resulting in the arrest of more than 300 people over two days in 34 Kentucky counties on October 28-29. General Conway's task force, Kentucky's only statewide task force devoted solely to investigating prescription pill abuse, was responsible for 27 of the arrests on 30 indictments issued in Powell and Menifee counties in Eastern Kentucky. Those arrested face nearly 50 counts of trafficking in a controlled substance, 1st and 2nd degree. The charges are Class C and D felonies that carry penalties of between one and 10 years in prison.



"We are striking a major blow against the epidemic of prescription drug abuse in Kentucky," said General Conway. "With the renewed cooperation between law enforcement at the local, state and federal level, we will shut down the pain pill pipeline between Kentucky and Florida."

Also participating in the drug sweep were Kentucky State Police, the FBI, U.S. Attorneys Office, Operation Unlawful Narcotics Investigations, Treatment and Education (UNITE), Appalachian High Intensity Drug Traffic Area (HIDTA) and the Office of National Drug Control Policy.

Investigators from the Drug Investigations Branch began working with Operation UNITE in July 2008 as part of this historic operation. Since January 2008, the OAG Drug Branch has seized more than 4,400 prescription pills, opened nearly 300 drug investigation cases, made nearly 100 arrests and participated in more than a dozen drug round-ups.

Kentucky Sheriffs and Deputies to Benefit from Settlement Over Deceptive Charitable Solicitations

Kentucky sheriffs and their deputies will soon receive much-needed equipment as a result of a settlement between the Office of the Attorney General, a Texas-based charity and its paid solicitor over allegedly deceptive fundraising practices.

Attorney General Conway joined with Kentucky sheriffs, including Warren County Sheriff Jerry "Peanuts" Gaines, in announcing that the United States Deputy Sheriffs Association (USDSA) and Courtesy Call, Inc. (CCI) would purchase \$71,500 in equipment for Kentucky sheriffs' departments for misleading donors into believing that their contributions would be used to purchase bulletproof vests for local sheriffs' departments. In some cases, the solicitor is alleged to have told donors that the caller was actually employed by the local sheriff's office.

"This type of deceptive solicitation takes advantage of the generosity of Kentucky citizens and does a disservice to those who risk their lives to keep us safe," said General Conway.

The Office of the Attorney General began investigating USDSA and CCI in May 2009 as part of the Federal Trade Commission's nationwide crackdown on fraudulent charitable solicitors claiming to help police, firefighters and veterans.

"I appreciate the Attorney General's office for its work in combating deceptive charitable solicitations that have taken thousands of dollars from our state. This settlement will ensure that local sheriffs' departments across Kentucky will receive much-needed equipment," said Sheriff Gaines, who also serves as President of the Kentucky Sheriff's Association.

As part of the settlement, CCI can continue its charitable solicitations in Kentucky, but must identify itself to call recipients as a paid professional solicitor in accordance with Kentucky law and obtain written confirmation from its non-profit clients verifying that the scripts it uses and the representations it makes are true and accurate.

For tips on charitable giving, visit <http://ag.ky.gov/civil/consumerprotection/charity/> or call the Office of the Attorney General Consumer Protection Hotline at 888-342-9257.



Kentucky Attorney General
Jack Conway

Kentucky Court Upholds Constitutionality of Kentucky's Price-Gouging Statute

A Franklin Circuit Judge has upheld the constitutionality of Kentucky's anti-price-gouging law in a challenge by Marathon Petroleum Company LLC, Marathon Oil Corp., and Speedway SuperAmerica LLC.

The Office of the Attorney General filed suit against Marathon and Speedway SuperAmerica in May 2007 alleging price gouging in the wholesale and retail pricing of gasoline in the wake of Hurricanes Katrina and Rita. Attorney General Conway sought an opinion from Franklin Circuit Court after the defendants challenged the constitutionality of the law.

"This is an important victory for Kentucky consumers and it serves as a warning to those who seek excessive profits during times of disaster," said General Conway. "My office will continue to enforce this law and protect consumers from those who prey on their vulnerability."



In upholding the state's price-gouging statute, Judge Thomas Wingate noted that Kentucky has a legitimate interest in protecting consumers from unjustified price spikes during a declared state of emergency and that the statute provides adequate notice to business who must obey it.

The Office of the Attorney General is seeking \$89 million in damages plus penalties from Marathon and Speedway SuperAmerica. No trial date has been set.

More information — <http://tinyurl.com/yzt8bt4>

\$14.7 Million Verdict Against Drug Company

A Franklin Circuit Court jury has handed down a \$14.7 million verdict against pharmaceutical giant AstraZeneca for defrauding the Medicaid program and Kentucky consumers by inflating the prices of its prescription drugs.



During the trial the Commonwealth showed that AstraZeneca published significantly inflated Average Wholesale Prices (AWPs) for its drugs that bore no relationship to any prices that the company charged its customers. The Kentucky Medicaid program relies on published AWPs to calculate Medicaid drug-reimbursement rates.

"My office is committed to putting an end to this type of deception and to ensuring that companies truthfully report their drug prices," said General Conway.

In June, General Conway announced a \$16 million verdict against Sandoz, the generic-drugs division of pharmaceutical giant Novartis, for inflating the prices of its prescription drugs. The Attorney General's Office has also settled cases with Amgen for \$2.4 million, Immunex for \$145,000, Bristol-Meyers Squibb for \$10 million and Baxter Healthcare Corporation for \$2 million.

Since General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered or obtained verdicts totaling nearly \$100 million for the Kentucky Medicaid Program.

More information — <http://tinyurl.com/yhgzye5>

Kentucky to Recover \$1.6 Million in Settlement Over False Claims to Medicaid

Attorney General Conway is pleased to announce that Kentucky has joined with other states and the federal government in reaching an agreement with four drug companies over allegations they submitted false claims to Medicaid.

Mylan Pharmaceuticals, Inc. (MPI), UDL Laboratories, Inc. (UDL), AstraZeneca Pharmaceuticals LP and Ortho McNeil Pharmaceutical, Inc., will pay a total of \$124 million to resolve claims that they violated the False Claims Act by failing to pay appropriate rebates for drugs that were paid for by Medicaid. As part of the settlements, the Commonwealth of Kentucky will recover more than \$1.6 million in total state and federal dollars. More than \$500,000 will go to Kentucky's Medicaid Program.

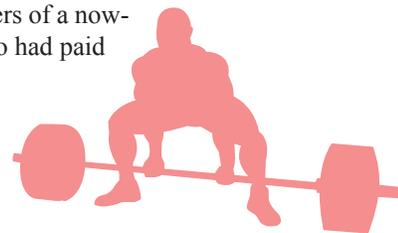


More information — <http://tinyurl.com/ykjd5>

Former Customers of LA Boxing Health Club To Receive Refunds

Attorney General Conway and his Office of Consumer Protection have issued refunds to former customers of a now-defunct Nicholasville health club. The LA Boxing Club closed in February 2009 with 144 members who had paid in advance.

Under Kentucky law, health clubs are required to register with the Attorney General's Office of Consumer Protection. Clubs that allow customers to pre-pay are required to maintain a surety bond in the event the club closes. After learning the club had closed, the Attorney General's Office notified the bond company, and identified consumers entitled to a refund.



The Office of the Attorney General issued checks to the club's former members on October 22 ranging from \$3 to \$1,890 for a total of \$13,475.86.

If you are interested in joining a health club, contact the Attorney General's Office at (502)696-5389 to learn whether the club is registered and bonded.

OAG's Special Prosecutions Unit Presents at National Association of Attorneys General Institute

Assistant Attorney General Jeff Prather was a presenter in October at the National Association of Attorneys General (NAAG) Training and Research Institute at the University of Mississippi in Oxford. Prather's presentation, "Prosecuting the Circumstantial Evidence Case," presented a case study of a cybercrime case from Logan County, Ky prosecuted by the OAG's Office of Special Prosecutions in 2009.

The case involved Kevin Cain's attempt to entice a 13-year-old to meet him for sexual purposes. The investigation later revealed a cache of digital child pornography on the defendant's computer. The 39-year-old man was charged just prior to his attempt to meet with the victim in person. Cain was sentenced to three years, suspended, on charges of use of electronic device to procure a minor for sexual purposes and possession of material portraying a sexual performance by a minor. Cain must also register as a sex offender in Kentucky.

The presentation was part of a conference entitled "Technology-Based Crimes Against Children: Cutting Edge Issues." Special Prosecutions Director Todd Lewis was part of a NAAG committee that designed the training topics during September and October.