



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA 17120

KATHLEEN G. KANE
ATTORNEY GENERAL

16TH FLOOR
STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-3391

November 13, 2015

Chair of the Special Committee on Senate Address
The Honorable John R. Gordner
Room 177, Main Capitol Building
Harrisburg, PA 17120-3027

RE: Subpoena Duces Tecum Response
The Special Committee on Senate Address

Dear Senator Gordner:

As discussed in my letter of November 6, 2015, the Pennsylvania Constitution and the long standing precedent set forth from various attempts for direct address by the Governor and the Senate, both for the proper use of direct removal in the case of senility or physical incapacity, and in the improper use of side stepping the impeachment process, it continues to be my position that this Special Committee on Senate Address lacks the jurisdiction, under Article VI, Section 7 of the Constitution in this proceeding to inquire into, hear and determine said action and that this process deprives an elected official the right to trial by jury, guaranteed under Article 1, or to a trial in regular proceedings by impeachment in accordance with Sections 1, 2, and 3 of Article VI of the Pennsylvania Constitution. Said action deprives an elected official of Due Process rights guaranteed to all citizens, and further attempts to utilize an administrative proceeding, of which there was no hearing, to further deny the elected official due process. As previously stated, this action thereby deprives the citizens of Pennsylvania their votes in the improper removal of an individual duly elected by the citizenry.

However, to maintain the respect and decorum of our government, I offer this response to your issuance of a Subpoena Duces Tecum to Kathleen Kane, Attorney General, on November 6, 2015, with a date deliverable no later than Friday, November 13, 2015 at 4:00 p.m. Please accept the following:

1. Any and all documents including electronic communications, detailing or describing the operation of the Office of Attorney General following the suspension of the Attorney General's law license which became effective on October 22, 2015.

Response: Beyond the document provided pursuant to your request #3, I am not aware of any other documents that exist.

2. Any and all communications from the Attorney General to the employees of the Office of Attorney General related to the suspension of the Attorney General's law license.

Response: No document exists.

3. Any and all communications sent to the Attorney General from or produced by employees of the Office of Attorney General related to the suspension of the Attorney General's law license.

Response: See Attachment #1

4. A description of any duties or functions the Attorney General has delegated to other employees of the Office of Attorney General which cannot be performed or effectuated due to the suspension of the Attorney General's law license.

Response: See Attachment #2

5. Any opinion or explanation of the legal authority of the Attorney General to delegate any duties or functions to the First Deputy since there has not been a "vacancy in the position of Attorney General"...

Response: Pursuant to the Commonwealth Attorney's Act, this agency may not provide legal opinions to anyone other than a Commonwealth Agency, after proper request.

A common sense reading of that Act fails to identify any provision which prohibits the Attorney General from designating any deputy or employee to perform the various functions of the office. Practically speaking, it would be impossible for the Attorney General to operate without delegation of duties to the approximately (835) members of OAG, with state wide jurisdiction, dealing with numerous divisions in the agency. I have enclosed the press releases of the activities of OAG on behalf of Pennsylvanians for this past week. See Attachment #3

6. All filings and documentation require under Section 217 of the Pennsylvania Rules of Disciplinary Enforcement related to formerly admitted attorneys.

Response: To my knowledge, all proceedings related to the Disciplinary Counsel and related proceedings are "confidential". Therefore, I will not further subject myself to possible disciplinary action or create a perceived waiver of confidentiality of these proceedings. I am confident that this Special Committee will respect the rules of the Disciplinary Counsel, and further will not demand a document that will affect my rights with regard to further disciplinary action.

Sincerely,



KATHLEEN G KANE
Attorney General

KGK/jma

ENCL\ (1) Attachment #1
(1) Attachment #2
(1) Attachment #3

cc: w/attachments to:
Honorable Joseph B. Scarnati, III, President Pro Tempore
Honorable Lisa Baker
Honorable Gene Yaw
Honorable Judith L. Schwank
Honorable Sean Wiley
Honorable Art Haywood
Honorable Mike Turzai, Speaker of the House
Governor Tom Wolf, Governor of Pennsylvania
File (11132015.docx)

ATTACHMENT #1

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
October 22, 2015

SUBJECT: Procedures During License Suspension

TO: Kathleen G. Kane
Attorney General

FROM: Bruce R. Beemer *BRB*
First Deputy Attorney General

James A. Donahue, III *JAD*
Executive Deputy Attorney General
Public Protection Division

Robert A. Mulle *RAM*
Executive Deputy Attorney General
Civil Law Division

Lawrence Cherba *LC*
Executive Deputy Attorney General
Criminal Law Division

We are writing as a follow-up to the brief discussion on this subject at yesterday's senior staff meeting. Based on the Rules of Disciplinary Enforcement and the governing decisional law, we cannot agree with your assessment that few adjustments to office operations are required during the term of your license suspension. To the contrary, we believe those authorities require immediate implementation of the changes outlined below. We stand ready to work with you to implement the needed changes. Failure to make those changes has already begun to generate serious problems for our agency and the work we do in our various divisions, for our attorneys and also for yourself. Making the necessary adjustments, on the other hand, will obviate these problems and allow the agency to continue its important work without undue complications. It is our goal to protect both you and the attorneys who work for you from successful claims that you are practicing law without a license or that agency attorneys have unlawfully aided you in doing so. We will address: first, pressing legal issues your suspension presents; second, the applicable legal standards; and finally, proposed operational procedures.

• ISSUES RAISED BY LICENSE SUSPENSION

Numerous issues are raised by your license suspension, including:

- 1) compliance with Rule 3.8 of the Rules of Professional Conduct;
- 2) the scope of the suspension;
- 3) the impact of the suspension on the office's decision making process;
- 4) the notice that must be given to the Office's clients of your suspension; and
- 5) the relationship of the attorneys in the office to you.

ATTACHMENT #1

The Supreme Court issued an order which suspended you from the practice of law, but specifically stated that you were not being removed from office. The Court did not draw the lines between your legal functions and elected functions as Attorney General. Your suspension references Rule 217 of the Pennsylvania Rules of Disciplinary Enforcement. That rule requires a number of things, including notice to your clients of your suspension, giving your clients the opportunity to find additional counsel and you need to detail your compliance with the rule.

As has already happened in one charities case, but we expect to happen in other cases across the three legal divisions, opposing counsel has challenged any "legal" decisions you make with regard to a decision to bring or settle case. We recognize that this is not simple problem. It may be a policy decision to emphasize criminal enforcement in one area as opposed to another, or to clean up a particular line of business which is treating consumers poorly like contractors, for example, and move resources from litigation of claims against auto dealers to do that, but there are also legal judgments made in the decision to file each case.

We have received an inquiry from the Office of General Counsel as to when it will receive Notice required of you by Pa. R.D.E. 217 (c)(1) and (2). We also need to be careful of opposing counsel using your conduct to accuse staff attorneys in the office of aiding someone in the practice of law without a license by allowing you to make legal decisions. To the extent you engage in the practice of law during your suspension and an attorney for the office does not report it, they too could be held to have violated Rule of Professional Conduct 8.3.¹

• LEGAL ANALYSIS

The Pennsylvania Supreme Court has explained that the practice of law occurs where a situation involves "the abstract understanding of legal principles and a refined skill for their concrete application, the exercise of legal judgment is called for." *Dauphin County Bar Ass'n v. Mazzacaro*, 465 Pa. 545 (1976). This same analysis has been adopted by several other courts. For example, the United States Bankruptcy Court for the Western District of Pennsylvania has stated that:

The standard for determining when an individual is practicing law is when the service requires legal knowledge, training, skill and ability beyond those possessed by the average person. *Matter of Arthur*, 15 B.R. 541 (Bankr.E.D.Pa.1981). Consequently, the practice of law is not confined to services rendered in relation to a particular court proceeding. *Id.* at 545.

In re Benninger, 357 B.R. 337, 352 (Bankr. W.D. Pa. 2006)

While some of the decisional law identifies services that are rendered by an attorney, *see, e.g., Blair v. Service Bureau*, 87 Pitts.L.J. 155 (1939)("[t]he lawyer engages in three types of professional

¹ Rule 8.3 states: "A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's . . . fitness as a lawyer in other respects, shall inform the appropriate professional authority." Pa. Rule of Professional Conduct 8.3(c). The rule goes on to say that it does not require disclosure of information otherwise protected by Rule 1.6, which deals with client confidentiality. The decision to commence civil or criminal litigation, should you make such a decision during your suspension, would be a public act and thus not subject to client confidentiality.

ATTACHMENT #1

activity: (1) he appears before public tribunals and presents evidence and arguments on behalf of clients; (2) he prepares documents for clients; and (3) he advises clients in regard to legal matters . . .”), our Supreme Court has also emphasized that there is no one, universally-applicable definition of the term “practice of law.” Rather, as *Mazzacaro* instructs, there must be a case-by-case determination as to whether a particular instance involved the practice of law. This assessment “must turn on a careful analysis of the particular judgment involved and the expertise that must be brought to bear on its exercise.” *Mazzacaro* at 553. Thus, the governing rule in Pennsylvania requires an evaluation of whether a matter requires legal knowledge, training and skill beyond what a lay person might possess, and a determination that depends on the facts and circumstances of the case.

Notably, standards governing the practice of law are even higher for government attorneys. There is, as our Supreme Court has made clear, a significant difference between private practitioners and attorneys in governmental practice. See *In re Thirty-Third Statewide Investigating Grand Jury*, 86 A.3 204, 221-223 (Pa. 2014). Importantly,

Government lawyers have responsibilities and obligations different from those facing members of the private bar. While the latter are appropriately concerned first and foremost with protecting their clients – even those engaged in wrongdoing – from criminal charges and public exposure, government lawyers have a higher, competing duty to act in the public interest.

In Re: A Witness Before The Special Grand Jury, 288 F.3d 293-294 (7th Cir. 2002)(internal citations omitted; emphasis added).

This already-heightened standard of professional behavior is increased even more where the government attorneys serve as prosecutors. Our Rules of Professional Conduct specifically impose special duties on those serving in that capacity and stress that a prosecutor must function as “a minister of justice and not simply that of an advocate.” See Pa.R.Prof.Cond. 3.8 (Special Responsibilities of a Prosecutor) and Explanatory Comment [1]. The rule specifically requires that prosecutors:

- a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
- (b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for, obtaining counsel and has been given reasonable opportunity to obtain counsel;
- (c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;
- (d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

Pa. R.Prof.Cond. Rule 3.8.

Each of these functions require legal acumen. Compliance with these obligations is of paramount importance. This is abundantly clear from the proceedings that culminated in the order suspending your license. The petition filed by the Disciplinary Board based its request for emergency

ATTACHMENT #1

relief on the adverse impact your continued practice of law would have in the area of criminal justice. See Petition for Emergency Temporary Suspension and Related Relief Pursuant to Pa.R.D.E. 208(f)(1) at pp. 15-18, ¶¶ 34-35.

There are numerous tasks in the Office of Attorney General that require the application of legal knowledge and skill a lay person does not possess. Chief among them is the decision of whether to commence or defend criminal and civil litigation. The practice of the office has been that the Attorney General is the person who ultimately authorizes the commencement and litigation of lawsuits.² This decision requires the type of legal skill and training that a lay person does not possess. In cases where the Commonwealth is defense counsel, the Attorney General ultimately authorizes which defenses can be pursued or ignored. Again, these tasks require a level of legal knowledge and skill not possessed by lay persons.

These matters are brought to you through the chain of command and in some cases by the line attorneys handling a specific matter to you directly. All these attorneys have ethical obligations under the code of professional conduct to among other things not foster the unauthorized practice of law and to report violations of the disciplinary code. A decision by you exercising the legal knowledge and skill not possessed by lay persons will not take place in a vacuum. It will always take place in the context of your communication with the attorney staff directly or indirectly. Any action that can be construed as you practicing law exposes the attorney staff to disciplinary sanction either for allowing you to make such a decision or not reporting it.

The Attorney General is different from other state-wide elected officials and cabinet members in that the Attorney General is the only position that requires the holder of the office to be an attorney. Some have suggested that the Attorney General is no different than the Auditor General, Secretary of Transportation or Secretary of Environmental Protection all of whom have some investigative and law enforcement authority, such as licensing revocations. Such a conclusion is wrong. None of these officials can commence a criminal proceeding. Nor may they commence litigation to collect any debts owed them for violation of the laws they enforce. 71 P. S. § 732-204. Those responsibilities fall solely to the Attorney General. The Attorney General represents agencies as their attorney. Litigation decisions whether they occur in the courtroom or in preparation for a court appearance are still the practice of law.

• PROCESS DURING SUSPENSION

Recognizing your role as Attorney General, but the fact that that your license is suspended, you should be informed of all actions that will be taken by the office as you normally would. However the ultimate decision on legal matters must lie with the First Deputy. The types of decision that should ultimately be decided by the First Deputy should include:

- 1) a decision on whether to bring a civil or criminal action;
- 2) decision on whether to settle civil actions;
- 3) decisions on whether to offer or accept a plea bargain;
- 4) any decision involving the grand juries;
- 5) decisions on whether to join amicus briefs, and
- 6) decisions on whether to use particular defenses in the cases the office is defending.

² Numerous case are approved by Attorneys-in-charge and Chief Deputies under existing operational standards.

ATTACHMENT #1

The Press Office should not say that you approved, initiated or decided to take action in a legal matter. We would expect that in those situations where the office is acting as counsel for the Commonwealth, the Governor or Commonwealth Agencies communications between our office and those entities would continue unless they choose other counsel.

These changes are made with the intent of insuring that neither you nor others in the office face any further sanction related to the suspension of your law license.

We are available to discuss at your convenience.

ATTACHMENT #2



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA 17120

16TH FLOOR
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HARRISBURG, PA 17120
(717) 787-3381

KATHLEEN G. KANE
ATTORNEY GENERAL

September 25, 2015

Lawrence M. Cherba
Executive Deputy Attorney General
Director, Criminal Law Division
Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Dear Mr. Cherba:

In accordance with 18 Pa.C.S.A. § 5708, I hereby designate to you the authority to make written applications to any Superior Court judge for orders authorizing the interception of wire, electronic or oral communications.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen G. Kane", written over a horizontal line.

Kathleen G. Kane
Attorney General



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA 17120

16TH FLOOR
STRAWBERRY SQUARE
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(717) 787-3391

KATHLEEN G. KANE
ATTORNEY GENERAL

September 25, 2015

Bruce R. Beemer
First Deputy Attorney General
Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Dear Mr. Beemer:

In accordance with 18 Pa.C.S.A. § 5708, I hereby designate to you the authority to make written applications to any Superior Court judge for orders authorizing the interception of wire, electronic or oral communications.

Very truly yours,

A handwritten signature in cursive script that reads "Kathleen G. Kane".

Kathleen G. Kane
Attorney General

Kane, Kathleen G.

From: Press
Sent: Tuesday, November 10, 2015 10:42 AM
To: All OAG
Subject: Attorney General announces settlement with woman accused of misrepresenting herself as attorney

Tuesday, Nov. 10, 2015

Office of Attorney General announces settlement with woman accused of misrepresenting herself as attorney

HARRISBURG — Attorney General Kathleen G. Kane today announced a legal settlement with the company Christi L. Jones and Associates, Inc., and its president, Christi Jones. The settlement was filed by the Office of Attorney General's Bureau of Consumer Protection and approved by court order.

Jones, of Tamaqua, Schuylkill County, allegedly represented herself as an attorney by advertising and offering to investigate, enforce and recover unpaid judgments.

Jones is not an attorney, nor does she employ any licensed attorneys. Her alleged actions are a violation of the Judicial Code, the Fair Credit Extensions Uniformity Act and the Consumer Protection Law.

As part of a request to recover an unpaid judgment, Jones allegedly mailed a court subpoena to the Port Authority of Pittsburgh to obtain the current employment status of a debtor. The subpoena stated that the requesting attorney was Christi L. Jones & Associates, and allegedly listed a miscellaneous attorney identification number. It was alleged that listing this misleading information gave the impression that Jones, or her business, was a licensed attorney.

The settlement, reached in the form of a consent agreement, prohibits Jones from investigating, enforcing and recovering unpaid judgments. Additionally, it prohibits Jones from advertising these services.

Jones has agreed to pay \$14,000 in civil penalties and costs. If she or her company violates the settlement, they may be ordered to pay any suspended amount plus \$5,000 for each additional violation. Since the filing of the consent agreement, Jones was married and changed her name last name to Beuchler.

The settlement was filed in the Schuylkill County Court of Common Pleas by Deputy Attorney General Nicole R. DiTomo of the Bureau of Consumer Protection.

Consumers with additional questions about the settlement, or who would like to file a complaint, may call the Bureau of Consumer Protection at 1-800-441-2555, visit www.attorneygeneral.gov or email Consumers@attorneygeneral.gov.

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Kane, Kathleen G.

From: Press
Sent: Tuesday, November 10, 2015 3:01 PM
To: All OAG
Subject: OAG files civil action against businesses accused of failing to deliver cemetery memorials

Tuesday, Nov. 10, 2015

Office of Attorney General files civil action against Philadelphia-area businesses accused of failing to timely deliver cemetery memorials

HARRISBURG — Attorney General Kathleen G. Kane today announced her office has filed a civil complaint against two Philadelphia-area businesses and their owner, who are all accused of failing to deliver cemetery markers, memorials and engravings after accepting advance payments.

"More than 50 consumers made reports to our office concerning their difficulties dealing with these businesses," Attorney General Kane said. "It is very disheartening to hear allegations of people being exploited during moments of tremendous grief and loss."

The complaint was filed against Lifestone by Stefan, LLC, Stefan Memorials, Inc. and Gregory J. Stefan Sr., the president and officer for both companies, which operate mainly in the southeast region of Pennsylvania. The complaint was filed by the Office of Attorney General's Bureau of Consumer Protection.

The complaint alleges violations of the Consumer Protection Law. The businesses allegedly failed to timely deliver cemetery markers and other similar items to consumers in the Philadelphia area and surrounding suburbs. Furthermore, it is alleged in many cases, that money was paid but the memorials were not delivered until long after the date promised by the defendants, according to the complaint.

In one case, consumers from the Malvern area in December 2012 made out a check to pay for an \$8,000 headstone. As of August — nearly three years later — the headstone had not been installed, the complaint alleges.

Additionally, the defendants or their representatives implied or expressed to certain consumers that they were affiliated with the cemeteries in which the consumers' relatives were being buried when that was not the case, the complaint alleges.

Stefan and the businesses also are accused of confusing and unclear solicitation, supplying goods of a lesser quality and refusing to provide timely refunds to consumers.

The complaint seeks restitution for consumers and \$1,000 in civil penalties for each violation of the Consumer Protection Law. It also seeks \$3,000 in civil penalties for each violation involving a consumer 60 years old or older. Furthermore, the complaint seeks a permanent injunction to restrain the defendants from continuing their alleged violations of the Consumer Protection Law.

The lawsuit was filed in the Delaware County Court of Common Pleas by Senior Deputy Attorney General Thomas Blessington of the Bureau of Consumer Protection.

Consumers with additional questions, or who would like to file a complaint, may call the Bureau of Consumer Protection at 1-800-441-2555, visit www.attorneygeneral.gov or email Consumers@attorneygeneral.gov.

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Agostinelli, Jeananne

From: Press
Sent: Thursday, November 12, 2015 10:36 AM
To: All OAG
Subject: 15 charged after investigations by Office of Attorney General's Insurance Fraud Section

Thursday, Nov. 12, 2015

15 charged after investigations by Office of Attorney General's Insurance Fraud Section

HARRISBURG — Attorney General Kathleen G. Kane today announced criminal charges have been filed against 15 individuals across the Commonwealth following unrelated insurance fraud investigations.

The charges, which were filed in recent weeks, were the result of investigations by the Office of Attorney General's Insurance Fraud Section. The Insurance Fraud Section is the largest law enforcement entity in Pennsylvania with specific authority to investigate and prosecute such crimes.

The charges announced today involve some of the most common types of insurance fraud. Below is a list of the defendants, the charges against them and a description of their alleged criminal acts.

Eastern Region

Amber Marie Barnes, 30, 1305 Blue Mountain Drive, Danielsville, Lehigh County, is charged with two counts of insurance fraud and one count of criminal attempt to commit theft by deception. Barnes in May 2013 was involved in an automobile accident while driving an uninsured vehicle, investigators said. Following the accident, Barnes called Progressive Insurance to reinstate the vehicle's prior insurance policy and allegedly claimed that she had not been involved in any accidents since the policy lapsed. Relying on her false statement, Progressive reinstated the policy and, after the other driver made a claim, Barnes allegedly lied again about the circumstances of the reinstatement in order to create the false impression that the reinstatement occurred before the accident. Barnes has waived a preliminary hearing.

Kim Simone, 47, 5600 Ogontz Ave., Apt. A45, Philadelphia, is charged with one count each of insurance fraud and criminal attempt to commit theft by deception. According to a criminal complaint, Simone in early 2013 staged a fall at a Philadelphia Wal-Mart, alleging that she slipped on a puddle of water and suffered injuries to her ankle, hip, neck and head. Surveillance video later contradicted Simone's claim and a store employee also confirmed there was no liquid on the floor at the time of the alleged incident, investigators reported. A preliminary hearing is scheduled for Dec. 4.

Michael Thompson, 34, 1010 Knorr St., Philadelphia, is charged with one count each of insurance fraud and criminal attempt to commit theft by deception. According to a criminal complaint, Thompson in May 2013 reported to his insurer, Esurance Insurance Service Inc., that his vehicle was vandalized and damaged. An investigation revealed the damage in fact was pre-existing from a time when another person owned the vehicle. A preliminary hearing is scheduled for Dec. 29.

Danielle Michels, 26, 248 Willow Drive, Levittown, Montgomery County, is charged with one count each of insurance fraud and theft by deception. Michels' boyfriend was driving her uninsured vehicle when an accident occurred in May 2013, investigators said. Following the accident, Michels allegedly obtained an insurance policy for the vehicle through Progressive Insurance. She later attempted to submit a claim in which she said the accident occurred after she obtained the policy, but investigators said the claim was false. Michels is scheduled to appear for a preliminary hearing on Dec. 7.

Central Region

Bonifacio Hernandez, 52, 99 Water St., Wilkes-Barre, Luzerne County, is charged with 12 counts of forgery and one count each of insurance fraud and theft by deception. According to a criminal complaint, Hernandez submitted a claim to Allstate Insurance in which he stated that items valued at approximately \$14,000 were stolen from his residence. The items, which he allegedly said were purchased from Amazon.com, included two computers, a gas-powered generator, a digital camera and a diamond ring, among other items. Investigators said they discovered the receipts Hernandez submitted as proof of

purchase for the allegedly stolen items were in fact forgeries. Hernandez waived a preliminary hearing and is scheduled to appear Jan. 15 for formal arraignment.

Western Region

Amber Ann Loutzenhiser, 27, 144 Northview Circle, Beaver, Lawrence County, is charged with one count each of insurance fraud and violation of the Controlled Substance, Drug, Device and Cosmetic Act. According to a criminal complaint, Loutzenhiser, a registered nurse at Jameson Hospital, recorded on multiple patient charts that she administered Dilaudid, a pain reliever. The investigation revealed that Loutzenhiser allegedly used the medication for her own use and created fraudulent records to bill patients' insurance companies. Loutzenhiser is scheduled to appear Jan. 14 for a preliminary hearing.

Adam Franklin Lung, 23, 102 Coal Run Road, Boynton, Somerset County, is charged with one count each of insurance fraud and criminal attempt to commit theft by deception. According to a criminal complaint, Lung in March was involved in an automobile accident while his vehicle had no collision insurance coverage. Lung is accused of placing a call to Progressive Insurance after the accident to add collision and comprehensive coverage to his existing insurance policy. Less than an hour later, he allegedly called Progressive to report the accident in hopes that the insurance company would authorize a claim to pay for the damages. Lung is scheduled to appear today for a preliminary hearing.

Amy Sue Millward, 36, 304 Cranberry Point, Cranberry, Butler County, is charged with two counts each of insurance fraud and criminal attempt to commit theft by deception. According to a criminal complaint, Millward in March was involved in an accident while her vehicle was uninsured. Millward allegedly obtained two separate insurance policies for the vehicle after the accident occurred. Later, she submitted separate claims in which she reported that her vehicle was hit by a deer, investigators allege. Digital photographs that Millward took of the damage included metadata that proved the accident occurred before Millward obtained coverage for her vehicle, investigators said. Millward is scheduled to appear Jan. 15 for a preliminary hearing.

Brian Buchko, 55, 122 S. Locust St., Apt. 3, Ebensburg, Cambria County, is charged with two counts of insurance fraud and one count of criminal attempt to commit theft by deception. Buchko in November obtained an automobile insurance policy with Safe Auto Insurance. A day after obtaining the policy, Buchko filed a claim alleging that he was involved in a two-vehicle accident after he obtained the new policy. An investigation revealed the accident occurred before Buchko obtained the policy, investigators allege. Buchko waived a preliminary hearing and is scheduled to appear Dec. 1 for formal arraignment.

Carrie L. Baginski, 42, 26 Trotter Lane, Clinton, Allegheny County, is charged with one count each of insurance fraud, forgery and criminal attempt to commit theft by deception. According to a criminal complaint, Baginski filed a homeowner's insurance claim related to odors caused after a neighbor died and remained in the home for approximately one week. Baginski was permitted to stay at a hotel while cleaning was performed, but submitted an invoice that claimed she spent 66 nights staying at a hotel. Investigators said the hotel did not exist and the invoice she submitted was fraudulent. Baginski is scheduled to appear Dec. 1 for a preliminary hearing.

Joanna M. Hendryx, 31, 118 Olean Road, Derrick City, McKean County, is charged with one count each of insurance fraud and criminal attempt to commit theft by deception. Hendryx is alleged to have obtained a new insurance policy for her vehicle in April. After the policy went into effect, Hendryx submitted a claim stating she was in an accident involving a deer. Investigators said they learned the accident actually occurred before Hendryx obtained the new insurance policy. Hendryx is scheduled to appear Nov. 19 for a preliminary hearing.

John D. Leali, 52, 437 N. Oakland Ave., Sharon, Mercer County, is charged with two counts of insurance fraud and one count of theft by deception, and Leaha M. Taylor, 42, 250 Emerson Ave., Farrell, Mercer County, is charged with three counts of insurance fraud and one count of theft by deception. Investigators reported that Leali and Taylor in March were involved in a scheme in which they attempted to submit an automobile claim with Safe Auto Insurance related to damage that actually occurred in January when the vehicle was insured by another company. Geico, the other company, denied the initial claim because of a lack of coverage, investigators said. Taylor later called Safe Auto Insurance to obtain a new policy. Leali filed a claim six days after the coverage went into effect claiming an accident occurred March 9. An investigation revealed the accident actually occurred Jan. 23. Leali and Taylor are both awaiting preliminary hearings.

Jacqueline R. Cunningham, 32, 270 Perry Road, Perryopolis, Fayette County, is charged with one count each of insurance fraud and theft by deception. Cunningham is accused of falsifying the date an automobile accident occurred in an attempt to have Progressive Insurance pay more than \$15,000 through a claim. The investigation revealed the

accident actually occurred in February of this year when Cunningham did not have insurance coverage for the vehicle. Cunningham later obtained a new policy through Progressive and six days later filed a claim for the accident, investigators said. Towing records that stemmed from the accident confirmed it occurred prior to Cunningham obtaining the new insurance policy, a criminal complaint alleges. A preliminary hearing is tentatively scheduled for Nov. 17.

Joshua J. Verner, 35, 2638 Lenz Ave., Ambridge, Beaver County, is charged with one count each of insurance fraud and criminal attempt to commit theft by deception. Verner in February obtained a new automobile insurance policy through Geico Insurance. Four days after obtaining the policy, he submitted a claim stating he was involved in an accident with a deer. Further investigation showed the accident occurred prior to Verner obtaining the insurance policy, investigators allege. Verner waived a preliminary hearing.

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In 1990, the state legislature made insurance fraud a serious crime in Pennsylvania, punishable by heavy fines and stiff prison sentences.

In 1994, legislation was enacted in Pennsylvania establishing the Insurance Fraud Prevention Authority (IFPA) and a Fraud Trust Fund. All insurance companies authorized to transact business in Pennsylvania pay an annual assessment into the fund. The funds provide financial support to the Office of Attorney General's Insurance Fraud Section and other law enforcement agencies to support insurance fraud investigations and prosecutions.

Private citizens can report allegations of insurance fraud using an [online form](#) or by calling the IFPA's hotline at 1-888-565-IFPA (4372).

Consumers with a complaint involving an insurance company that does not involve fraud should contact the Pennsylvania Insurance Department at 1-877-881-6388 or the [Attorney General's Bureau of Consumer Protection](#) at 1-800-441-2555.

(A person charged with a crime is presumed innocent until proven guilty.)

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Kane, Kathleen G.

From: Press
Sent: Friday, November 13, 2015 11:20 AM
To: All OAG
Subject: Pennsylvania joins proposed federal settlement after review of major finance company acquisition

Friday, Nov. 13, 2015

Pennsylvania joins proposed federal settlement after review of major finance company acquisition

HARRISBURG — Pennsylvania today joined the U.S. Department of Justice and six other states in filing a federal civil antitrust lawsuit and related proposed settlement that will ensure competition in various markets nationwide following a major personal finance company's acquisition of a competitor.

Attorney General Kathleen G. Kane today announced the filings, which are the result of an investigation of Springleaf Holdings, Inc. and its proposed acquisition of OneMain Financial. The latter company is owned by CitiFinancial Credit Company, a wholly-owned subsidiary of Citigroup, Inc. Springleaf in March announced its intent to acquire OneMain Financial for \$4.25 billion.

The purpose of the collaborative investigation between federal and state authorities was to review whether the merger would result in substantially less competition for consumer finance loans to subprime borrowers. The antitrust lawsuit will block the proposed acquisition. At the same time, the proposed settlement, if approved by the court, would resolve the lawsuit by requiring Springleaf to divest 127 branches with more than \$600 million in loan receivables to proceed with its acquisition of OneMain.

According to the complaint, Springleaf and OneMain are the two largest providers of personal installment loans to subprime borrowers in the United States. Personal installment loans to subprime borrowers are fixed-rate, fixed-term and fully amortized loan products that are marketed to consumers who have limited access to credit from traditional banking institutions.

Springleaf and OneMain specialize in the same products (large installment loans typically ranging from \$3,000 to \$6,000), target the same customer base and have a large degree of geographic overlap between their branch networks.

In Pennsylvania, the proposed merger in some areas would have reduced the number of market participants from three to two, or two to one, meaning there would be substantially less competition without a structural remedy.

The parties have agreed to divest 10 branches in 10 affected markets throughout the state as a condition of the acquisition. Those markets are Cheltenham, Johnstown, Lancaster, Monaca, Norristown, Shamokin Dam, State College, Tannersville, Upper Darby and Washington.

The other states that worked on this investigation include Colorado, Idaho, Texas, Virginia, Washington and West Virginia.

The settlement was filed in the form of a consent decree in the United States District Court for the District of Columbia. Under the terms of the proposed consent decree, Springleaf must divest 127 branches in 11 states to Lendmark Financial Services, or to an alternative buyer approved by the United States.

The divestiture includes all active loans originated or serviced at the divested branches and other assets associated with the branches. Divestiture of the branches to Lendmark will create a new competitor in the provision of personal installment loans to subprime borrowers in Arizona, California, Colorado, Idaho, Ohio, Texas and Washington. In North Carolina, Pennsylvania, Virginia and West Virginia, the divestiture will establish Lendmark as a new competitor in some local areas and enhance its competitive presence in others. Taken together, the divestitures will remedy the loss of competition alleged in the joint complaint.

Attachment #3

Springleaf is a Delaware corporation with its headquarters in Evansville, Ind. Springleaf operates approximately 830 branches in 27 states. Springleaf has a consumer loan portfolio that totals \$4 billion.

OneMain is a Delaware limited liability company with its headquarters in Baltimore. OneMain operates approximately 1,139 branches in 43 states. OneMain has a consumer loan portfolio that totals \$8.4 billion.

Attorney General Kane thanked the Department of Justice and other participating states for their work on this investigation.

The review of the potential impact of the proposed acquisition on Pennsylvania was conducted by the Office of Attorney General's Antitrust Section, which is tasked with protecting the free enterprise system by detecting anti-competitive practices and taking legal action to stop them.

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Kane, Kathleen G.

From: Press
Sent: Friday, November 13, 2015 10:45 AM
To: All OAG
Subject: AG's office files suit against tech company accused of bilking consumers out of more than \$17M

Friday, Nov. 13, 2015

Office of Attorney General files suit against tech support company accused of bilking consumers out of more than \$17 million

HARRISBURG — Attorney General Kathleen G. Kane, in partnership with the Federal Trade Commission and the Connecticut Office of the Attorney General, today announced a federal court has granted a request to shut down a technical support company accused of using a telemarketing scheme to charge consumers for unnecessary computer repairs. The scheme allegedly bilked consumers nationwide out of more than \$17 million.

Attorney General Kane made the announcement in partnership with the FTC and Connecticut Attorney General George Jepsen. The parties all filed a joint civil complaint in federal court against Click4Support, LLC, several related companies and individuals with alleged involvement. The complaint seeks restitution for consumers.

"These scam artists used deceptive business practices to take advantage of thousands of consumers throughout the country," Attorney General Kane said. "The filing today fulfills one of my goals of conducting more joint investigations with federal authorities and other state Attorneys General to track down and bring to justice deceitful businesses that operate across state borders. It is a necessary step as we seek to recover the significant sums of money lost by these victims."

Click4Support LLC, based in Connecticut, is a computer technical service that claimed to help customers with such problems as spyware, malware, viruses and hackers. The company showed high in search engine queries for technical support and used popup advertisements that were made to look like warnings from consumers' computers, the complaint alleges.

Consumers called in and spoke to telemarketers, who allegedly portrayed the company as being affiliated with well-known tech companies such as Apple, Google, Dell or Microsoft, the complaint says. Consumers then gave telemarketers access and control of their computers. The telemarketers performed various commands and actions purportedly to identify the cause of the issue. "Error" and "warning" messages were shown to customers to indicate that something was wrong, the complaint alleges.

Telemarketers later pressured consumers to purchase "technical support services." The services in some cases cost consumers thousands of dollars, investigators allege.

After obtaining consumers' payment information, "technicians" deleted harmless computer files which telemarketers falsely claimed were the cause of the problems, the complaint alleges. Often the technicians made computer security worse for consumers. Additionally, in some instances, technicians removed already installed anti-virus and security software and replaced them with other programs.

Other defendants named in the civil complaint are iSourceUSA LLC, Innovazion Inc., Spanning Source LLC, and officers Bruce Bartolotta, George Saab, Chetan Bhikhubhai Patel and Niraj Patel. iSourceUSA LLC and Spanning Source LLC are both based in Pennsylvania.

The complaint alleges the defendants violated the FTC Act, the Telemarketing Sales Rule, the Connecticut Unfair Trade Practices Act and the Pennsylvania Unfair Trade Practices and Consumer Protection Law.

In addition to seeking restitution for consumers, the complaint seeks payment for legal costs and civil penalties. The complaint was filed in the U.S. District Court for the Eastern District of Pennsylvania.

Attachment #3

Additionally, a preliminary injunction order issued by the court requires the defendants to stop their deceptive and unfair practices and makes the companies subject to an asset freeze as the case against them progresses.

Attorney General Kane thanked the Federal Trade Commission, Attorney General Jepsen and the Better Business Bureaus serving Connecticut and Eastern Pennsylvania for their assistance with this investigation.

Consumers who would like to file a complaint concerning this company may do so online at www.attorneygeneral.gov, by phone at 1-800-441-2555 or by email at consumers@attorneygeneral.gov.

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Kane, Kathleen G.

From: Press
Sent: Friday, November 13, 2015 11:24 AM
To: All OAG
Subject: Attorney General's Child Predator Section reaches 140 arrests in 2015 following recent investigation

Friday, Nov. 13, 2015

Attorney General's Child Predator Section reaches 140 arrests in 2015 following recent investigations

HARRISBURG — Attorney General Kathleen G. Kane today announced the Office of Attorney General's Child Predator Section recently arrested two men for distribution and possession of child pornography, bringing the total number of arrests for 2015 to 140 suspected predators.

The latest arrests occurred following separate investigations in recent days in Lehigh and Luzerne counties. The defendants are:

- Brian Keith Hood, 49, 2246 West Greenleaf St., Allentown, Lehigh County.
- Brian Hopersberger, 44, 151 North Mountain Blvd., Mountain Top, Luzerne County.

Hood charges

Hood was arrested following an undercover investigation in which agents sought to identify persons using a file sharing network to obtain and distribute child pornography.

A computer associated with Hood was identified on a network sharing files containing suspected child pornography. That led agents from the Office of Attorney General's Child Predator Section and the Allentown Police Department to execute a search warrant at Hood's residence. A preliminary review of several electronic devices revealed multiple images indicative of child pornography.

Hood was charged with two counts of distribution of child pornography, 11 counts of possession of child pornography and one count of criminal use of a communication facility. He is confined to the Lehigh County Jail after failing to post \$50,000 bail. A preliminary hearing is scheduled for Dec. 9.

Attorney General Kane thanked the Allentown Police Department for assisting with Hood's arrest.

Hood will be prosecuted by Deputy Attorney General Rebecca Elo of the Office of Attorney General's Child Predator Section.

Hopersberger charges

Hopersberger was arrested Thursday after an online investigation revealed images of apparent child pornography were made available on a file sharing network from an IP address linked to his residence.

Agents from the Office of Attorney General's Child Predator Section, the Luzerne County district attorney's office and the Fairview Township Police Department executed a search warrant at Hoppersberger's residence in August. A computer seized during the search revealed multiple images of suspected child pornography.

A criminal complaint was filed Oct. 30 and a warrant was issued for his arrest. Hoppersberger surrendered Thursday to Magisterial District Judge Ronald Swank.

He is charged with three counts of distribution of child pornography, 106 counts of possession of child pornography and one count of criminal use of a communication facility.

Hopersberger was released after bail was set at \$10,000 unsecured. A preliminary hearing is tentatively set for Nov. 18.

Attorney General Kane thanked the Luzerne County district attorney's office and the Fairview Township Police Department for assisting with Hopersberger's arrest.

Hopersberger will be prosecuted by Deputy Attorney General Rebecca Elo of the Office of Attorney General's Child Predator Section.

Reporting Child Predators

Suspected child predators can be reported to the Office of Attorney General by calling the Child Predator Hotline at 1-800-385-1044. Individuals who suspect an online predator or child sexual abuse can also send an anonymous tip to the office by texting PAKIDS + YOUR TIP to 847411.

(A person charged with a crime is presumed innocent until proven guilty.)

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