

## **ARTICLES FOR 4-13-17 ROUNDUP**

### **SAVIN System Highlights Crime Victims' Rights Week**

PIERRE, S.D. – As part of the National Crime Victims' Rights Week, Attorney General Marty Jackley would like to recognize the progress in the Statewide Automated Victim Information and Notification System (SAVIN).

“National Crime Victims’ Rights Week focuses on the advancement of victims’ rights and how victims can be better served. The SAVIN System is doing just that as it continues to make more readily available to victims and the public more information,” said Jackley.

In August 2016, the SAVIN System was launched and tasked at providing a free, automated service that provides crime victims with vital information and notification 24 hours a day, 365 days a year. The system service allows victims to obtain offender information and to register for notification of a change in offender status. At the time of inception, SAVIN received information from the South Dakota Unified Judicial System, South Dakota Department of Corrections and 3 county jails. Since then, the information feeds have increased to 10 county jails servicing a total of 31 counties in South Dakota. Those jails include the following: Brookings, Clay, Codington, Davison, Hughes, Lake, Meade, Pennington, Union, and Yankton. Minnehaha County will be live by the end of April.

In addition, the South Dakota Legislature passed SB 26, an Attorney General sponsored bill allowing the SAVIN System to be made more efficient and easier for victims to use by allowing them to register directly with the SAVIN system removing unnecessary government redundancy.

SAVIN can be used by anyone, but specifically is a tool that can give victims real time, up to date information on their offender and information relating to their case and custody status. SAVIN can be accessed online at <https://savin.sd.gov/Portal/> or by calling 1-844-299-4608.

### **AG FERGUSON RELEASES IMMIGRATION GUIDANCE FOR LOCAL GOVERNMENT**

OLYMPIA — Attorney General Bob Ferguson today released guidance for local governments on protecting the rights of all Washington residents, and the limits of federal immigration authority.

Ferguson’s extensive guidance addresses local law enforcement, jails, public hospitals, schools and employers, as well as interactions between local jurisdictions and federal authorities. It includes model language that can be used to enact laws and policies on how local government entities should respond to federal requests for assistance with immigration enforcement.

“Recent changes in federal immigration policy and practices have caused needless fear and uncertainty in our communities,” Ferguson said. “This guidance helps local governments protect their residents and understand their obligations and their authority in this shifting landscape.”

Non-citizens — like other Washingtonians — are afforded certain rights by the Washington and United States constitutions and by federal and state laws that protect rights to access services and to privacy in many settings. Local entities are subject to certain requirements under the law but also retain significant discretion in many areas, regardless of whether an individual is lawfully present in the United States.

For example: No federal law requires a local police department to engage in law enforcement activities for the sole purpose of enforcing civil immigration law.

Another example: Local governments and private organizations are not required to allow immigration authorities to enter non-public areas of a building without a warrant signed by a judge.

Another example: K-12 schools are not required to collect information about student or parent immigrant status and are not required to share information with federal immigration authorities about student addresses, class schedules, or activities.

This guide is not meant to assist individuals with immigration issues. The Attorney General's Office does not represent individuals in private legal matters.

Those in need of individual assistance should contact a reputable source such as the Northwest Immigrant Rights Project. Eligibility requirements are available online in English and Spanish here. Assistance is available for residents across Washington and those detained at the Northwest Detention Center.

## **AG Coffman Announces \$491,000 Judgment Against Illegal and Abusive Debt Collection Agency**

Colorado Attorney General Cynthia H. Coffman announced today that her office has shut down the unlicensed debt collection company Peak Resolution, LLC and secured a judgment requiring the defendants to pay approximately \$491,000 in consumer restitution, penalties, and attorney fees. The judgment also prohibits the defendants from ever doing business in Colorado or collecting from Colorado citizens again without proper licensure and full legal compliance. Dan Cane, Peak Resolution's owner, and Chris Hagerman, the company's primary manager, are also subject to the judgment.

“There is a right way and a wrong way to collect debts in Colorado, and consumers who have fallen into debt do not deserve to be lied to and threatened by collection agencies,” said Attorney General Coffman. “While there are many law-abiding collection companies in Colorado, we will not tolerate any company that collects debts illegally.”

Peak Resolution operated out of the Denver area from early 2014 through January, 2015, illegally collecting money from thousands of consumers under its own name and various aliases, including PR & Associates; Paramount Recoveries; and Mile High Mediation, LLC. After hearing evidence from dozens of affected consumers and several former employees, the Honorable Judge Vallejos of the Denver District Court found that Peak Resolution, Cane, and Hagerman had violated the law by operating without the license required to collect from consumers in Colorado. Judge

Vallejos also found that the defendants had engaged in a wide range of deceptive and abusive debt collection practices, including fabricating criminal charges against consumers in an effort to frighten them into paying. The Court noted, “the collection methods used were egregious and appear almost as if Defendants looked to the statute to see what was prohibited and then used it as a guide to do those very things.”

To learn more about consumer loans and credit or debt collection in Colorado, to file a complaint, or to verify whether a debt collector is licensed in Colorado, please visit [www.coag.gov/ccu](http://www.coag.gov/ccu).

## **Schuette: Texas-based Fundraiser Faces 319,000 Civil Violations for Deceptively Operating Michigan Humane Society Clothing Donation Bins**

LANSING – Michigan Attorney General Bill Schuette today announced a Notice of Intended Action and Cease and Desist Order against for-profit clothing donation bin operator A.T.R.S. of Houston, Texas, alleging over 300,000 violations for falsely labeling the 251 clothing bins it operates for the Michigan Humane Society.

The A.T.R.S.-operated bins state that the Michigan Humane Society “receives 100% of the market value of every donation received at this location.” However, by contract, A.T.R.S. pays the Michigan Humane Society just \$.02 per pound. For 2016, donations to the bins generated \$835k in revenue for A.T.R.S., an average of \$.34 per pound; A.T.R.S. paid the Michigan Humane Society \$.02 per pound for these items, or \$49k, which equals just 6% of the market value of the donated clothes.

“Michigan residents deserve to know if the donation they make will have an impact,” said Schuette. “Due to the alleged deceptive marketing of this company, residents who donate to these bins across the state are led to believe that the Michigan Humane Society is getting a large amount of their donation which is untrue and cannot be tolerated.”

The Notice of Intended Action alleges 319,274 violations, with maximum penalties of \$10,000 per violation. It also orders A.T.R.S. to cease and desist these violations and gives them twenty-one days to resolve the matter or face a civil action in court.

### **Case Background**

A.T.R.S Inc. came to the attention of the Attorney General’s Charitable Trust Section during the investigation of another professional fundraiser Golden Recyclers. (Golden Recyclers recently agreed to pay \$35k for deceptively operating its clothing donation bins.)

A.T.R.S operates 251 bins throughout Michigan, including Detroit, Lansing, Jackson, Kalamazoo, Battle Creek, and surround areas. A.T.R.S.’s sole Michigan client is the Michigan Humane Society. By its contract with the Michigan Humane Society, A.T.R.S. pays the Michigan Humane Society \$.02 per pound for all items donated in the Michigan Humane Society-labeled bins.

As part of its 2016 fundraising license renewal, A.T.R.S. submitted a campaign financial statement showing it had collected roughly \$50k for the Michigan Humane Society, but reporting no campaign costs. In light of A.T.R.S.’s \$.02 per pound contract with the Michigan Humane Society,

this campaign report appeared false, so the Attorney General began investigating. The investigation confirmed that A.T.R.S. was not disclosing hundreds of thousands of dollars of campaign costs; moreover, the investigation revealed that A.T.R.S.'s bins included deceptive stickers that misrepresented that 100% of the market value of donated items benefited the Michigan Humane Society.

#### Charitable Solicitations Resources

Complaints regarding charitable solicitations may be filed through the Attorney General's online complaint form, or by mailing the Charitable Trust Section at P.O. Box 30214, Lansing, MI 48909-7714, or by emailing the Charitable Trust Section.

To assist individuals in making wise decisions regarding which charitable donations to support, Attorney General Schuette established an online searchable database for charities. The Attorney General also publishes an annual professional fundraising charitable solicitation report. Through these resources, users have access to information to aid them in determining which charities are worth supporting—and which are not. The Attorney General's Charitable Trust Section is also available at 517-373-1152 to answer inquiries about a charity.

## **AG FERGUSON CRACKS DOWN ON ILLEGAL LEASE PROVISIONS TARGETING SERVICE MEMBERS**

Office's first use of 2014 amendments to state law

OLYMPIA — Attorney General Bob Ferguson announced today that a Portland, Ore.-based property management company must pay more than \$16,000 for requiring service members to sign illegal lease addendums requiring them to forfeit rent concessions if they had to terminate their leases early as a result of change of station or deployment.

CTL Management included the addendum on more than 220 leases at Chambers Creek Estates, a large apartment complex in University Place, near Joint Base Lewis-McChord, which houses many military families. Under the agreement, filed in Thurston County Superior Court, the company will refund a total of \$6,000 in rent concessions it illegally recouped from a total of 34 service members who were forced to cancel leases due to military service.

CTL will also pay \$10,360 in attorney costs and fees. CTL stopped using the addendums following the AGO investigation, and will not enforce any addendums still in place. There are currently 67 tenants at Chambers Creek Estates who are service members.

The addendums violate the Washington state and federal Service Members Civil Relief Act (SCRA). The state law, which was amended by legislation requested by Ferguson in 2014, provides financial and legal protections for military service members ordered to federal and state active duty. Those protections include reduced interest rates on preexisting debts, and protections from default judgments.

CTL required service members to sign a “military addendum” to their leases. This addendum forced the service member to return any rent concessions they received at the time they signed their lease in the event they had to terminate the lease early because of deployment or an ordered

change of station. These concessions usually were provided as reductions to first month's rent or a gift card. When the service member had to terminate the lease, CTL recouped the full amount of the rent concession — typically \$100 to \$200 — as part of the final accounting by reducing the amount of the damage deposit refunded or requesting repayment. The service member lost the entire amount of the concession, regardless of how many months remained on the service member's lease.

"Our men and women in uniform should not be burdened by unfair costs for serving their country," Ferguson said. "I won't allow companies to make our military service members pay for serving their country."

Today's agreement represents the Attorney General's Office's first case under the SCRA's 2014 amendments, which made violations of the federal Act a violation of state law, as well. The legislation also gave the Attorney General's Office authority to enforce the statute. Ferguson has proposed additional protections in an agency request bill this session, along with other legislation to benefit service members.

As part of the agreement, CTL is required to hold annual training for management and other employees on compliance with the SCRA for three years.

Assistant Attorney General John A. Nelson handled the case.

#### Proposed 2017 legislation

Ferguson has proposed legislation this session to update the SCRA to reflect wider uses of long-term contracts service members may be faced with canceling when they are called to active duty.

The measure, proposed as House Bill 1056 and Senate Bill 5041, expands the SCRA to include protections for cancelations or suspensions of more contracts, including gym memberships and internet, television, satellite radio and telecommunications services. The bills are sponsored by Rep. Christine Kilduff, D-University Place, and Sen. Michael Baumgartner, R-Spokane.

Ferguson has also proposed agency request legislation to improve service members' access to legal services. House Bill 1055, also sponsored by Rep. Kilduff, and Senate Bill 5021, sponsored by Sen. Steve O'Ban, R-Pierce County, creates an Office of Military and Veteran Legal Assistance in the Attorney General's Office, serving as a one-stop shop for legal assistance and pro bono services provided by community organizations and private attorneys.

All four bills have passed their respective houses of the Legislature and are being considered by the other chamber.

Standing up for Washington's veterans and military families is a priority for Ferguson. Since taking office in 2013, he has released a legal resource guide to help educate veterans and military service members about their rights, requested legislation to improve their legal protections, and cracked down on unfair and deceptive schemes targeting veterans and military families.

## **Ludlow Doctor Pleads Guilty in Connection With Illegally Prescribing Opioids to At-risk Patients**

Doctor Prescribed Powerful Painkillers to Patients with Documented Substance Use Disorder; Fraudulently Billed MassHealth

SPRINGFIELD – A Ludlow physician has pleaded guilty to illegally prescribing opioids to patients for no legitimate medical purpose, some of whom had documented substance use disorder, and for defrauding the state’s Medicaid program (MassHealth), Attorney General Maura Healey announced today.

Dr. Fernando Jayma, age 74, a solo practitioner of general medicine in Ludlow, pleaded guilty yesterday in Hampden Superior Court before Judge Edward J. McDonough, Jr. to charges of Illegal Prescribing of Controlled Substances (22 counts), Medicaid False Claims (18 counts), and Larceny over \$250 (1 count). He will be sentenced on May 16, 2017.

Dr. Jayma was indicted in November 2015 following an investigation by the AG’s Office after the matter was referred by MassHealth. In state fiscal year 2013, Dr. Jayma was the second highest MassHealth prescriber of schedule II opioids.

The investigation revealed that in multiple instances, Dr. Jayma prescribed opioids, including oxycodone, morphine, methadone and fentanyl, to patients for no legitimate medical purpose. Dr. Jayma prescribed the drugs, which have a high potential for abuse, to some patients despite their documented substance abuse. The illegal prescriptions Dr. Jayma wrote caused pharmacies to unwittingly falsely bill MassHealth for the medication.

In several instances, while patients’ urine drug screens were negative for prescribed opioids, Dr. Jayma continued to prescribe opioids to those patients even though they tested positive for heroin or other non-prescribed opioids.

Dr. Jayma also continued to prescribe fentanyl and oxycodone to a patient who in the recent past was determined to have overdosed on fentanyl.

In addition to the illegal prescribing, Dr. Jayma arranged for another doctor to see his patients when he was out of the country and directed his office staff to bill MassHealth as if Dr. Jayma were treating those patients. The other doctor was not credentialed with MassHealth, and MassHealth would not have paid the claims if it knew that he, and not Dr. Jayma, had provided the services.

At the time of Dr. Jayma’s indictment, the AG’s Office worked with the Department of Public Health, the Board of Registration in Medicine, and local health officials to ensure that patients of Dr. Jayma were referred for proper care and treatment by other medical professionals.

This case is just one way Attorney General Healey is working to address the opioid epidemic in Massachusetts. The AG’s Office is looking at a host of other practices, from marketing by pharmaceutical companies, to pill diversion and drug trafficking by criminal entities, to coverage

for substance abuse treatment by insurance companies. The AG's Office also continues to work on solutions that include eliminating barriers to treatment and supporting prevention and education initiatives across the state.

This case was prosecuted by Assistant Attorney General Steven Hoffman, Deputy Division Chief of the AG's Medicaid Fraud Division, and Assistant Attorney General Alexandra Brazier, and was investigated by Medicaid Fraud Division Investigators Chris Cecchini and Nan Browne.

## **AG Paxton: Suspension of BLM Red River Surveys is a Win for Texas**

Attorney General Ken Paxton today praised the Trump administration for suspending three U.S. Bureau of Land Management (BLM) surveys from the Obama-era that the BLM used to justify a land grab involving 90,000 acres near the Red River.

The federal action was prompted by the BLM's admission earlier this week that it used "incorrect methodology" while determining the gradient boundary on a portion of the 116-mile stretch of Texas properties along the Red River. Attorney General Paxton intervened in November 2015 on behalf of the state in a lawsuit brought against the BLM by affected property owners.

"This latest action by the Trump administration protects the property rights of Texans as defined by the U.S. Supreme Court and prevents the federal government from infringing upon Texas' sovereign borders," Attorney General Paxton said. "It was our contention all along that the BLM's surveys were conducted improperly and unlawfully. We will vigilantly defend Texas' border from federal overreach."

Pursuant to various U.S. Supreme Court cases in the 1920s, the federal government only has rights to from the Red River's medial line up to the river's southern bank. The BLM began its surveys in 2008 as part of an Obama-era process to update the Bureau's Resource Management Plan. Those surveys claimed federal rights to land far from the river's southern bank. That was reportedly the first time Texas landowners were told that the federal government was claiming their properties as public lands.