

## **ARTICLES FOR 10-13-16 ROUNDUP**

### **AG Schimel Convenes AG Colleagues in Milwaukee to Discuss Heroin and Prescription Drug Abuse**

MILWAUKEE, Wis. – Wisconsin Attorney General Brad Schimel, Chairman of the National Association of Attorneys General (NAAG) Midwestern Region, will hold a meeting October 6-7, 2016 in Milwaukee, Wis. to discuss an attorney general's role in fighting opiate abuse.

“My top priority as Attorney General has been preventing prescription drug and heroin abuse in Wisconsin,” said Attorney General Brad Schimel. “When I ran for Attorney General, I promised to convene AGs from across the country to discuss heroin and prescription drug abuse and now the multi-disciplinary team of professionals that have been leading this fight with me in our state will have an opportunity to share our efforts with my colleagues.”

Presentations and discussions at the meeting will cover treatment, prescription drug monitoring programs, legislation and policy, building a drug disposal program, enforcement, coalition building, and raising public awareness.

Speakers at the meeting will include Wisconsin Lieutenant Governor Rebecca Kleefisch, Wisconsin Attorney General Brad Schimel, Wisconsin State Representative John Nygren, law enforcement, addiction treatment and medical experts, and the Lybert Family, who founded Your Choice to Live, after their son Tyler struggled with prescription drugs and heroin abuse.

### **AG Paxton: Arrest of Backpage.com CEO Shows Texas Doesn't Tolerate Human Trafficking**

In his office's continued effort to combat human trafficking, Texas Attorney General Ken Paxton today announced the arrest of Carl Ferrer, the CEO of Backpage.com, a notorious adult website that generates millions of dollars annually from its classified sex ads.

Ferrer, 55, was taken into custody this afternoon on a California arrest warrant after he arrived in Houston on a flight from Amsterdam. A lengthy joint investigation by the offices of the Texas and California attorneys general uncovered evidence that adult and child sex trafficking victims were forced into prostitution through escort ads that appeared repeatedly on Backpage.

“Making money off the backs of innocent human beings by allowing them to be exploited for modern-day slavery is not acceptable in Texas,” Attorney General Paxton said. “I intend to use every resource my office has to make sure those who profit from the exploitation and trafficking of persons are held accountable to the fullest extent of the law.”

Nearly three dozen members of the Texas Attorney General's Law Enforcement Unit participated in Ferrer's arrest and the execution of a search warrant on the Dallas headquarters of Backpage, which is considered the largest advertiser of adult escort services in the United States.

Last January, Attorney General Paxton launched his office's Human Trafficking and Transnational/Organized Crime (HTTOC) unit, which works closely with prosecutors around the state to bring human traffickers to justice. Recently, HTTOC helped the Nueces County district attorney's office secure a 40-year sentence for the trafficker of a 15-year-old victim.

## **Attorney General Kamala D. Harris Announces Criminal Charges Against Senior Corporate Officers of Backpage.com for Profiting from Prostitution and Arrest of Carl Ferrer, CEO**

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SACRAMENTO -- Attorney General Kamala D. Harris today announced the arrest of Carl Ferrer, the Chief Executive Officer of online advertising website Backpage.com, on felony charges of pimping a minor, pimping, and conspiracy to commit pimping. Michael Lacey and James Larkin, controlling shareholders of Backpage, have also been criminally charged with conspiracy to commit pimping, a felony. Backpage hosts ads for "escort services", essentially operating as an online brothel and generating millions of dollars off the illegal sex trade.

"Raking in millions of dollars from the trafficking and exploitation of vulnerable victims is outrageous, despicable and illegal," said Attorney General Harris. "Backpage and its executives purposefully and unlawfully designed Backpage to be the world's top online brothel. Thank you to the California Department of Justice Special Agents, investigators, attorneys, and our partners in law enforcement who have worked tirelessly to bring the operators of this online brothel to justice and protect thousands of victims of trafficking."

While Backpage hosts ads for sales of a range of items and services, the arrest warrant alleges that the vast majority of Backpage's revenue is generated through prostitution-related ads in its "adult services" section. Backpage collects fees from users who post "escort" ads, offering sex for money using coded language and nearly nude photos. The California Department of Justice's investigation found that many of the ads for prostitution services involved victims of sex trafficking, including children under the age of 18.

Since 2010, Backpage has been expanding operations, creating sites in hundreds of cities throughout the world, including over 30 cities in California. Backpage's internal revenue reports show that from January 2013 to March 2015, 99% of Backpage's worldwide income was directly attributable to the "adult" section. During this 29-month period, Backpage's self-reporting demonstrates that gross monthly income from California rose to \$2.5 million per month, with over \$51 million in revenue derived from California in that period.

In addition to making millions of dollars off the sale of "adult" ads on Backpage, the arrest warrant alleges that Ferrer devised a way to promote Backpage by creating other prostitution-related sites that essentially serve as an escort directory comprised entirely of Backpage users. Ferrer took data from Backpage users and created content for Backpage-affiliated sites like EvilEmpire.com and BigCity.com. The investigation found that EvilEmpire.com featured photos and contact information from Backpage and offered no apparent way for users to submit content directly.

These schemes enabled Ferrer and his co-conspirators to expand Backpage's share of the online sex advertising market.

The California Department of Justice conducted a three-year investigation, including undercover operations posting "escort" ads and arranging meetings with people who had advertised in the "escort" section, confirming that commercial sex was the only purpose for both buyers and sellers. The investigation was sparked by reports from media, law enforcement agencies, and the National Center for Missing and Exploited Children (NCMEC). In the last five years, NCMEC has reported an over 800% increase in reports of suspected child sex trafficking, much of it the result of online child sex trafficking. Since 2012, the NCMEC has reported 2,900 instances to California law enforcement where suspected child sex trafficking occurred via Backpage.

In addition to NCMEC, other agencies assisting in the investigation include the Texas Attorney General's office, the Los Angeles District Attorney's Office, the Contra Costa District Attorney's Office, the Los Angeles Sheriff's Human Trafficking Taskforce, the Long Beach Police Department, the Mesa Police Department, the Rocklin Police Department, the Napa Police Department, the U.S. Department of Homeland Security, and the U.S. Department of Justice. The CEO and founder of Runaway Girl, Carissa Phelps, also collaborated with the California Department of Justice to reach out to and support victims.

Anyone who was a victim of trafficking via Backpage is encouraged to file a report with the California Department of Justice by emailing [backpage@doj.ca.gov](mailto: backpage@doj.ca.gov).

Attorney General Harris has made fighting human trafficking a priority for the California Department of Justice, and has advocated for increased collaboration among federal, state and local law enforcement agencies during the investigation and prosecution of human trafficking crimes.

The Office of the Attorney General is actively investigating and prosecuting human trafficking cases across California. Most recently, the office secured a felony conviction against Andrew Jordan, 37, of Long Beach, on charges of human trafficking, pimping, pandering, domestic violence, and assault. Jordan forced women to commit commercial sex acts and kept the proceeds, severely punishing the victims if they violated his strict rules.

Last year, the Office of the Attorney General released a resource guide to help companies comply with the California Transparency in Supply Chains Act. The law requires large retailers and manufacturers doing business in California to disclose on their websites their "efforts to eradicate slavery and human trafficking from [their] direct supply chain for tangible goods offered for sale."

In 2012, Attorney General Harris created a Human Trafficking Work Group and released a report, *The State of Human Trafficking in California*, which discussed the growth of human trafficking crimes statewide and the challenges with combatting them effectively.

Please note that an arrest warrant contains only allegations against a person and, as with all defendants, Carl Ferrer, Michael Lacey, and James Larkin must be presumed innocent unless and until proven guilty.

Copies of the arrest warrant and complaint are attached to the online version of this news release at [www.oag.ca.gov/news](http://www.oag.ca.gov/news).

## **Attorney General Kamala D. Harris Announces California Cyber Crime Center Initiative in Fresno**

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FRESNO – Attorney General Kamala D. Harris today announced the creation of the California Cyber Crime Center (C4), a new initiative within the California Department of Justice to fight crime in the digital era by bringing state-of-the-art digital forensic capabilities and cyber security expertise to law enforcement across the state.

“As the world becomes increasingly digital and crime evolves, the tools we use to prevent, investigate, and prosecute crime must keep pace. Criminals are operating online with alarming sophistication, committing identity theft, hacking, cyber exploitation, and other crimes that involve technology, and law enforcement must stay one step ahead,” said Attorney General Harris. “The California Cyber Crime Center brings legal, technical, and forensic capabilities to law enforcement across the state, helping our partners combat crime and building on our commitment to bring innovation to government.”

C4 brings together the eCrime unit, established by Attorney General Harris in 2011 to investigate and prosecute large-scale identity theft and technology crimes; the Network Information Security Section (NISS), the California Department of Justice (DOJ)’s office of cyber security experts; and the Digital Evidence Unit, which was first piloted in the California DOJ Bureau of Forensic Service state crime labs in 2011, making California one of the first states in the nation to develop this capability. The Digital Evidence Unit uses scientific methods to extract and analyze information from technological items like cell phones and offers foundational classes on forensic training for law enforcement. To date, nearly 1,300 law enforcement personnel have been trained through these courses, with approximately 80 agencies per year trained since 2012.

C4 also includes a newly created unit—the Office of Digital Investigations (ODI)—that focuses on emerging technologies like software and data forensics and website reconstruction. ODI provides law enforcement with the capability to restore the digital scene of a crime to aid investigators in uncovering crucial evidence. This unit’s technical expertise was critical in the first-in-the-nation criminal convictions of cyber exploitation website operators Kevin Bollaert and Casey Meyering which Attorney General Harris secured last year. Bollaert and Meyering were sentenced to 18 years and three years respectively for running websites where users could post intimate images of unsuspecting victims without their consent.

The final component of C4 is a brand-new Cyber Accelerator, a program that brings together members of the Digital Evidence Unit, the Office of Digital Investigations, and the eCrime Unit to focus on research and development and collaborate on new innovations. The first product developed in the Cyber Accelerator is a Cyber Response Vehicle (CRV)—a re-purposed Mobile

Command Vehicle that was retrofitted into a mobile digital forensics laboratory. The CRV allows multiple staff to collect, acquire, and process media, mobile devices, personal computers, servers and other sources of electronically stored information on-site during the course of an investigation.

Attorney General Harris has developed and implemented a range of initiatives to protect the privacy and cyber security of California's residents and businesses. Last year, Attorney General Harris launched an online resource hub with helpful tools for victims, the technology industry, and law enforcement agencies to combat cyber exploitation, where intimate images are shared without consent in order to humiliate or extort the victim. The Attorney General supported legislation signed into law last year by Governor Jerry Brown, Senate Bill 676 (Cannella, R-Ceres) and Assembly Bill 1310 (Gatto, D-Glendale), expanding the tools with which law enforcement can gather evidence in cyber exploitation cases and more effectively prosecute these crimes.

Attorney General Kamala D. Harris created the Privacy Enforcement and Protection Unit in 2012 to focus on protecting consumer and individual privacy through civil prosecution of state and federal privacy laws. The eCrime Unit, created by Attorney General Harris in 2011, opened 22 investigations, filed 23 complaints, and obtained 44 convictions, securing a total of \$30.6 million in restitution for victims and taxpayers in 2014-2015 alone.

## **Energy Transfer Partners aims to resume construction soon**

TOM STROMME, TRIBUNE

Energy Transfer Partners issued a statement today saying it is pleased with the decision of the U.S. Court of Appeals to dissolve the administrative injunction that had temporarily suspended construction activities on the Dakota Access pipeline in an area near the proposed crossing of the Missouri River at Lake Oahe.

The Appeals Court has now joined with the Federal District Court in denying the Standing Rock Sioux Tribe's motion for an injunction to stop construction of the Dakota Access pipeline.

"The Army Corps and Dakota Access carefully considered the views of all potentially affected tribes that chose to participate in the consultative process prescribed by Congress, and fully complied with both the letter and the spirit of the National Historic Preservation Act," the statement said.

The company indicated it believes the U.S. Army Corps of Engineers will soon issue the easement for about 1,100 feet for crossing beneath the Missouri River.

"In light of Sunday's court decision, Dakota Access looks forward to a prompt resumption of construction activities east and west of Lake Oahe on private land," the statement said. "All construction efforts will be undertaken in close coordination with state and local law enforcement officials, and we are hopeful their law enforcement efforts will be supplemented by those of the federal government."

## **Attorney General's Office Agrees To Settlement With Burlington Laboratories On Medicaid Fraud Investigation**

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October 10, 2016

The State of Vermont, and Burlington Laboratories, Inc. and Burlington Labs, LLC (together “Burlington Labs”), have reached an agreement settling an investigation by the Medicaid Fraud and Residential Abuse Unit of the Office of the Attorney General into whether Burlington submitted false claims or received overpayments from the Vermont Medicaid Program. Burlington Labs will pay \$6.75 million to settle potential claims under the Vermont False Claims Act.

“This settlement balances the ongoing needs for drug testing services in Vermont with ensuring proper billings for services rendered and safeguarding of state and federal monies,” said Attorney General William H. Sorrell.

Burlington Labs is an independent toxicology laboratory, headquartered in Burlington, Vermont. The settlement resolves an investigation into Burlington Labs’ Medicaid claims related to drug screening and certain confirmatory tests. The investigation revealed that from January 1, 2015, through June 30, 2015, Burlington Labs violated a number of Medicaid rules regarding such tests including by varying the charged amount submitted to Vermont Medicaid depending on the number of drugs tested. As a result of this practice, Burlington Labs received more than \$12 million from the Vermont Medicaid program in calendar year 2015, after only receiving approximately \$10 million over the previous five years combined. The increase in 2015 was not proportional to an increase in patients screened by Burlington Labs during that time period.

Under the settlement agreement, Burlington Labs will pay \$6.75 million to the Vermont Medicaid program. The settlement agreement allows Burlington Labs to make payments over a seven-year period. The extended payment terms are intended to maximize Burlington Labs’ ability to continue operations, fulfill its mission, and properly compensate the Medicaid Program.

Pursuant to the settlement agreement, Burlington Labs has entered into a Corporate Integrity Agreement with the State that requires enhanced compliance measures, including independent review of a sample of its claims for up to five years. Burlington Labs will be required to return to Vermont Medicaid any overpayment identified and must also establish a compliance program designed to prevent or limit future false claims.

## **JUDGE RULES 5-HOUR ENERGY® VIOLATED CONSUMER PROTECTION ACT**

Company used thousands of deceptive ads to mislead consumers

SEATTLE — The makers of 5-hour ENERGY® violated the state’s Consumer Protection Act by making claims in thousands of ads that were not backed by scientific evidence, according to a ruling filed in King County Superior Court today.

After a three week trial that ended in early September, King County Superior Court Judge Beth Andrus agreed with Attorney General Bob Ferguson that advertising campaigns and press releases by the companies that produce 5-hour ENERGY® — Living Essentials LLC and Innovation Ventures LLC — were misleading.

Judge Andrus issued her 59-page ruling after the court closed on Friday. Her ruling was officially entered into the court record today.

Ferguson filed the lawsuit in July of 2014 against the makers of 5-hour ENERGY®, a popular flavored energy shot sold in 1.93 oz. containers. The Attorney General's Office alleged they deceived consumers with ads claiming that doctors recommend 5-hour ENERGY®; that the product is superior to coffee because its "energy blend" interacts in a "synergistic" way with caffeine to make the energy and alertness associated with caffeine last longer; and that Decaf 5-hour ENERGY® provides consumers with energy, alertness and focus that lasts for hours.

"The makers of 5-hour ENERGY® misled consumers in pursuit of profit," Ferguson said. "They broke the law, and they will be held accountable for their deception."

One ad campaign implied that doctors recommend the product based on survey data. The judge agreed that 5-hour ENERGY®'s "Ask Your Doctor" campaign inappropriately combined two separate surveys — one done online, and one by paper with very different survey methodology. The results of those surveys did not support the ads' impression that 73 percent of doctors in both surveys recommended 5-hour ENERGY®, the judge ruled.

Further, the judge agreed with an expert who testified for the Attorney General's Office that the surveys were based on biased questions designed to solicit positive responses for the energy drink.

Ferguson also challenged claims that 5-hour ENERGY® was superior to coffee because of the "synergistic" interaction of caffeine and the energy drink's other ingredients. Judge Andrus agreed that the claims were not backed by scientific evidence.

Judge Andrus wrote: "None of the studies Living Essentials submitted to the Court support the claim that combining specific B vitamins, taurine, choline, glucuronolactone and tyrosine with caffeine will cause the energy, alertness and focus effects of caffeine to last longer than if the caffeine were consumed alone."

Judge Andrus also agreed Defendants' claims that decaffeinated 5-hour ENERGY® offered similar effects to the product's caffeinated version lacked "competent and reliable scientific evidence."

Judge Andrus sided with the makers of the product that there is scientific evidence to support that the non-caffeine ingredients in 5-hour ENERGY® themselves may support energy and alertness. She also found that the companies didn't violate the Consumer Protection Act with the claim that the product doesn't produce a "crash."

Judge Andrus will determine the penalties and other remedies in the case at a future date.

Lisa Erwin and Trisha McArdle, both senior counsel with the Attorney General's Office, and Assistant Attorneys General Daniel Davies and Kimberlee Gunning handled the case.

## **AG Derek Schmidt releases report on Colorado marijuana in Kansas**

TOPEKA – (October 10, 2016) – The Kansas attorney general's office today published a new report that shows marijuana from Colorado has permeated nearly all parts of Kansas, Attorney General Derek Schmidt said.

The report also shows that Colorado's decision to "legalize" marijuana has resulted in a sharp increase in the availability of marijuana-laced "edibles" in Kansas, a phenomenon rarely encountered here before the Colorado experiment.

Since Colorado changed its state law to allow recreational as well as medical use of marijuana, persistent anecdotal reports from law enforcement agencies in Kansas had suggested Colorado marijuana was readily flowing into Kansas despite assurances that federal authorities would exercise their authority to prevent Colorado marijuana from flowing into nearby states where it remains illegal. But solid data about the extent of the problem was unavailable.

In December 2015, Schmidt exercised his authority under Kansas law to gather information from local law enforcement officials and began surveying all county and district attorneys, sheriffs and police departments in the state about their specific experiences with marijuana coming from Colorado. The information provided by 320 responding law enforcement agencies and 70 prosecutors' offices is compiled in the report released today.

"This report provides the first data-based snapshot of the specific effects Colorado's experiment in 'legalization' is having in Kansas," Schmidt said. "I hope this information will serve to better inform policy discussions and debates. Whatever one's views on the merits of Colorado's choice to 'legalize' and on the federal government's decision to look the other way despite the commands of federal law, it is clear that decisions made in Colorado and Washington, D.C., are having a significant effect in Kansas."

The report summarizes its findings as follows:

The survey responses demonstrate that Colorado marijuana is prevalent in Kansas. While some jurisdictions reported an increase in overall levels of marijuana crimes, the major effect of Colorado marijuana 'legalization' appears to be that high grade marijuana from Colorado has to a large extent replaced lower grade marijuana from Mexico and home grown marijuana. Numerous jurisdictions also reported a significant rise in the availability of marijuana edibles and other marijuana products, such as waxes and oils, originating from Colorado.

A copy of the report is available on the attorney general's website at [www.ag.ks.gov/survey-results](http://www.ag.ks.gov/survey-results). That site also links to the raw information collected from the responding law enforcement agencies and prosecutors.