Office of the Attorney General

Attorney General Conway Announces $3.7 Million Settlement with Drug Company

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Attorney General Jack Conway today announced a $3.75 million settlement with drug manufacturer GlaxoSmithKline (GSK) for deceptive or false marketing of the anti-nausea drugs Kytril and Zofran, among others. The settlement follows a January 27, 2010 decision by Franklin Circuit Judge Roger Crittenden to award the Commonwealth more than $5.8 million in civil penalties against GSK for violating Kentucky’s Consumer Protection Act.

"I believe this case has sent a clear message to drug companies that Kentucky’s Consumer Protection law will be strictly enforced," General Conway said. "This settlement gives the Commonwealth an instant influx of much needed funds and avoids the uncertainty of a long and drawn out appellate process."

This is the latest in a number of settlements and jury awards in the so-called Average Wholesale Price (AWP) lawsuits filed by the Office of the Attorney General against 46 pharmaceutical manufacturers. The Kentucky Medicaid program relies on these published AWPs to calculate Medicaid drug reimbursement rates.

The lawsuits allege that the defendant drug companies published bogus and inflated AWPs for their drugs which did not bear any relationship to any prices that these companies actually charged their customers. The artificial "spread" between the bogus published prices and the real prices caused the Kentucky Medicaid program to pay millions of dollars more in drug reimbursements than it should have.

Since Attorney General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered or been awarded over $135 million dollars for the state and federal Medicaid programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers.

A settlement is not an admission of liability in a civil case.