



YEAR IN REVIEW

2015

MARYLAND OFFICE OF THE ATTORNEY GENERAL

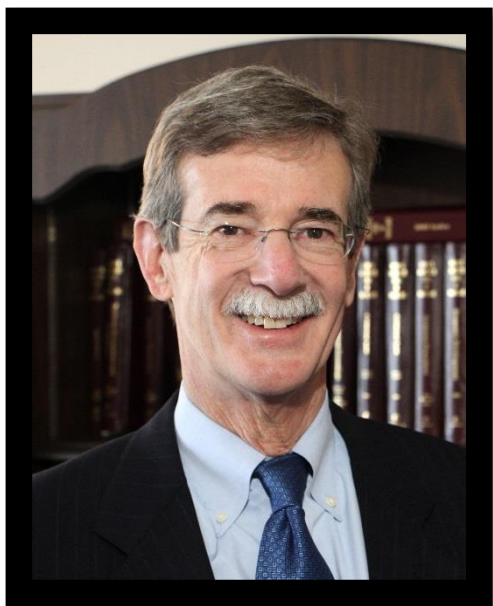
YEAR IN REVIEW 2015

2015 was a productive year for the Maryland Office of the Attorney General. We were vigilant in protecting Marylanders from fraud and abuse. Our attorneys represented a broad range of clients with professionalism and skill.

From U.S. Supreme Court victories to major reports, guidance documents and the reclamation of tens of millions of taxpayer dollars, OAG attorneys worked diligently on behalf of all Marylanders.

I am pleased to provide this summary of initiatives, litigation and other accomplishments that represent our most notable achievements of the past calendar year.

I remain honored to serve as Maryland's Attorney General, and am working tirelessly to uphold the fine traditions of this office.



Sincerely,

A handwritten signature in blue ink that reads "Brian E. Frosh". The signature is fluid and cursive, written in a professional style.

Brian E. Frosh

Maryland Attorney General

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MAJOR INITIATIVES

False Claims Act

The Office of the Attorney General fulfilled its top legislative priority of the year when the General Assembly adopted the False Claims Act, a fraud-fighting tool to protect whistleblowers and help state and local governments recoup lost funds.

The False Claims Act multiplies Maryland's resources to combat fraud committed against government. In the words of Attorney General Frosh, "this law, in effect, incentivizes integrity."

Under the Act, whistleblowers are empowered and encouraged to alert the government about fraud by private contractors. The Office of the Attorney General, or local State's Attorneys Offices, review cases and pursue those with the most merit by employing a screening process to insure that only the strongest cases move forward. When a case is successful, the state and local government may receive triple damages. The employees or others who initiated the claim are allowed to collect a reward, and also receive protection against on-the-job retaliation.

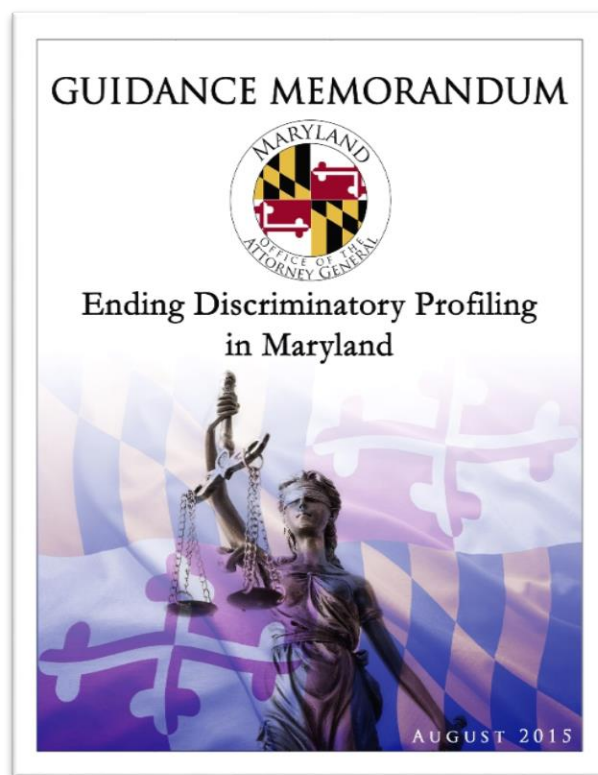
Since the law took effect, the Office of the Attorney General has devoted staff resources to develop cases. Maryland had a limited version of the False Claims Act, applying to cases of Medicaid and health-care related fraud. The state has recovered an average of \$28 million a year for the past two years from Medicaid-related cases initiated by whistleblowers and others. The federal government recouped nearly \$5 billion in 2012 from its version of the False

Claims Act, with 60 percent coming from medical claims and 40 percent from other actions.

The bill passed in the 2015 session of the Maryland General Assembly with bipartisan support, a recognition that honest businesses are harmed when dishonest businesses are allowed to get away with wrongdoing.

Discriminatory Profiling

To help rebuild trust between law enforcement agencies and the communities they serve, Attorney General Frosh unveiled in August 2015 a **guidance memorandum** designed to end discriminatory profiling in Maryland, broadening the characteristics that may not be used to single out groups during everyday police activity.



Under the guidance memorandum, officers in any law enforcement agency in Maryland may

not consider race, ethnicity, gender, national origin, religion, sexual orientation, disability or gender identity to any degree during routine police operations.

Acknowledging that police do a dangerous job and almost always perform it well, Attorney General Frosh said when issuing the guidance that “experience shows us that improper profiling by police does terrible damage. It discourages cooperation by law-abiding citizens, it generates bogus leads that turn attention away from bona fide criminal conduct, and it erodes community trust.”

In December 2014, the U.S. Department of Justice issued a similar guidance document addressing police profiling, and then-Attorney General Eric Holder called on states to follow suit. Maryland was the first state to answer that call and adopt discriminatory profiling standards at the state level.

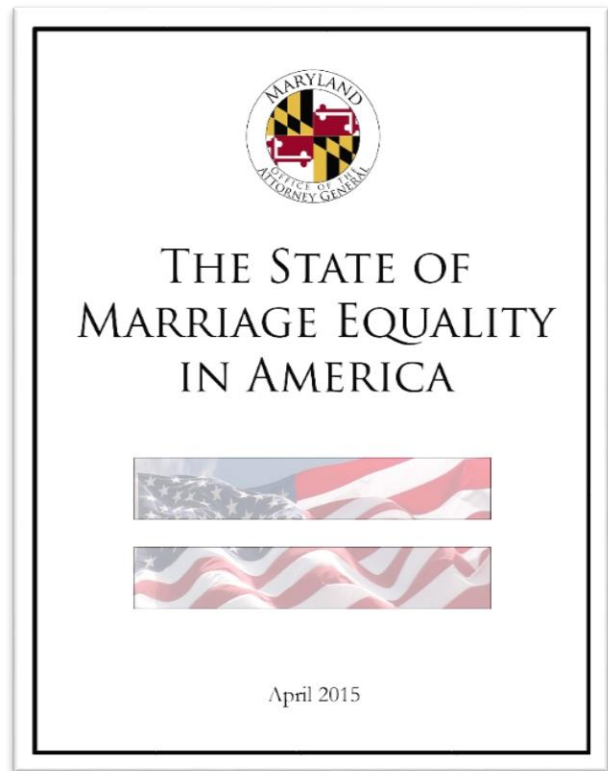
The memorandum contains standards in two categories: routine police work, and investigations. In routine work, profiling based on characteristics such as religion, race or sexual orientation may never take place. During investigations of specific crimes or criminal schemes, law enforcement may take those factors into account if they have credible evidence that those characteristics are directly relevant to the investigation.

Since issuing the guidance, the Office of the Attorney General has been working with law enforcement agencies across the state to develop training and to insure that the standards are adopted into departmental general orders. The Office expects to provide regular updates on progress in ending discriminatory profiling in Maryland.

The State of Marriage Equality in America

As the U.S. Supreme Court prepared for its landmark ruling on same-sex marriage in 2015, the Office of the Attorney General continued Maryland’s leadership role in this important area of public policy.

In 2012, Maryland became the first state to authorize same-sex marriage by a popular vote. But the state’s history has been checkered: Maryland was also the first state to ban same-sex unions, in 1972. As our own legislative history shows, the issue has a long and challenging history, with positions changing over time.



The Office of the Attorney General decided to undertake a comprehensive review of the history and background of laws for and against same-sex marriage in each state. The information compiled was not available elsewhere,

and we believed it would be a valuable addition to the dialogue taking place at the U.S. Supreme Court and throughout the country.

Our report, *The State of Marriage Equality in America*, was issued in April 2015 and found that laws prohibiting same-sex marriage in states have consistently been driven by fear, prejudice and hate. In fact, the report found, state political processes have been systematically degraded by animus directed at the lesbian, gay, bisexual and transgender community.

It was the proper role of the U.S. Supreme Court, the Office concluded, to intercede to protect groups which may be deemed by some to be unpopular, or to be the recipients of widespread prejudice and hate. The timing of marriage bans in most states indicates that the laws were reactionary attempts to reinforce beliefs that the LGBT community was not entitled to equal status.

We submitted our report to the U.S. Supreme Court, which prominently cited our work in its landmark decision, *Obergefell v. Hodges*.

Structured Settlement Investigations

The Office of the Attorney General remains concerned that victims of lead paint poisoning who may have significant impairments are entering into transactions that they may not understand and that may compromise their future.

The Office has initiated an investigation into the transfer of structured settlement payments from Marylanders who were plaintiffs in lawsuits, including those arising from childhood

lead paint exposure, to businesses that acquire these payment rights.

As part of the investigation, the Office has reviewed scores of petitions from a single company filed in the Circuit Court for Prince George's County between June 2013 and August 2015. During that time, the vast majority of the petitions were approved. In these cases, the company acquired payment rights worth about \$21 million in net present value from injured Marylanders and, in exchange, provided about \$6 million in cash to those Marylanders. At least half of those cases, and possibly more, involved Marylanders who had been plaintiffs in lead paint poisoning lawsuits and who therefore may suffer from some cognitive impairment.



The Office has also moved to intervene in a series of cases in which shell companies that failed to register to do business in Maryland were seeking court approval to obtain long-term structured settlement payment rights from an injured Marylander, often for a fraction of their value.

The Office will continue its protection efforts on behalf of Marylanders in 2016, with a proposed legislative remedy and continued intervention in cases.

Maryland Cybersecurity Council

The Office of the Attorney General is bringing together leaders from the federal and state governments, the private sector and academia to make sure Maryland stays at the leading edge in cybersecurity, fulfilling a mission given to the Office by the Maryland General Assembly.

The Maryland Cybersecurity Council, headed by the Attorney General and launched in Fall 2015, is taking stock of Maryland's cyber readiness with an eye toward recommendations for improvements. Maryland cannot remain the leader in cybersecurity if our readiness lags behind.



Among the critical tasks that the Council will undertake are: performing cyber risk assessments of local infrastructure sectors; identifying critical cyber infrastructure; assist infrastructure entities so they comply with federal cyber security guidance; assisting private cyber security businesses in implementing the National Institute of Standards and Technology's cybersecurity framework; examining inconsistencies between state and federal cybersecurity laws; and recommending a cyber incident response plan for the State.

The Cybersecurity Council is to submit a report to the General Assembly on its activities on July 1, 2016 and every two years thereafter.

MAJOR LITIGATION VICTORIES

Health Benefits Exchange

In July 2015, the Office of the Attorney General announced that Noridian Healthcare Solutions, LLC, the prime contractor hired to build Maryland's flawed health exchange website, agreed to pay \$45 million to avoid legal action over its performance. The company will pay \$20 million upfront, and an additional \$25 million in annual installments of \$5 million over five years. The payments represent a recovery of 61 percent of the total paid to the company for the failed web site development and launch in 2013.

According to Attorney General Frosh, the settlement, with proceeds to be divided between the state and federal governments, "sends a message that the performance was unacceptable, and that those responsible will be held accountable."

The settlement represents a fair deal for taxpayers because of limitations on Noridian Healthcare Solutions' ability to pay. Noridian Healthcare Solutions' parent company has agreed to guarantee at least \$40 million of the settlement payment. Investigation of claims against other companies involved in the development and implementation of the Maryland exchange is continuing.

Confederate License Plate Recall

In October 2015, a U.S. District Judge issued an order granting the Attorney General's request to lift a 1997 injunction that prevented the recall of Sons of Confederate Veterans specialty tags.

Maryland first attempted to recall the specialty plates bearing the logo of the Sons of Confederate Veterans in the 1990s, but the U.S. District Court ruled at the time that the tags were protected as free speech under the First Amendment.



In June 2015, the U.S. Supreme Court decided that states could reject specialty license plates as a form of government speech. Attorney General Frosh immediately took action to have the injunction lifted.

Attorney General Frosh has called the Confederate Flag “a painful symbol that divides us, conjuring images of hate and subjugation. It has no place in any contemporary government use.”

Tobacco Litigation

The Office of the Attorney General secured a major victory for Maryland taxpayers when, in October 2015, the Court of Special Appeals determined that Maryland was improperly docked funds it should have received as part of

the 1998 Master Settlement Agreement with tobacco manufacturers.

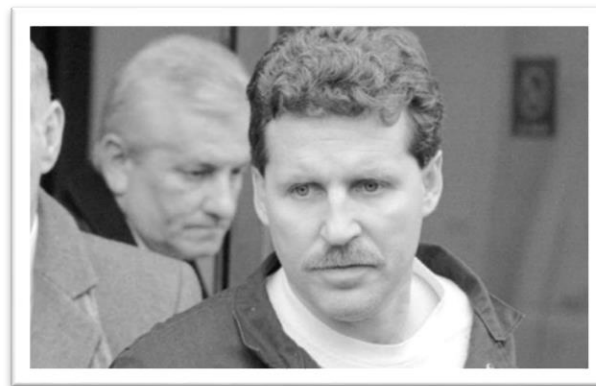
The Court of Special Appeals opinion addressed the amount of money that the State of Maryland is entitled to receive under the terms of the Master Settlement Agreement, and held that an arbitration panel improperly reduced Maryland's payment.

Because of the ruling, the State expects to recover in excess of an additional \$50 million when it receives its tobacco settlement payment in 2016.

Maryland v. Kulbicki, U.S. Supreme Court Victory

In October 2015, the U.S. Supreme Court reinstated the murder conviction of James Kulbicki, a former Baltimore City police sergeant who killed his girlfriend in 1993, affirming the position offered by the Maryland Office of the Attorney General.

The Supreme Court ruled that the Maryland Court of Appeals erred in concluding that Kulbicki received ineffective assistance of counsel when his attorneys did not vigorously question the technology behind the analysis of the bullets used in the killing.



The unequivocal decision restored the integrity of an important murder conviction, and sent a clear signal that the closure delivered to a family by a verdict should only be undone in exceptional circumstances.

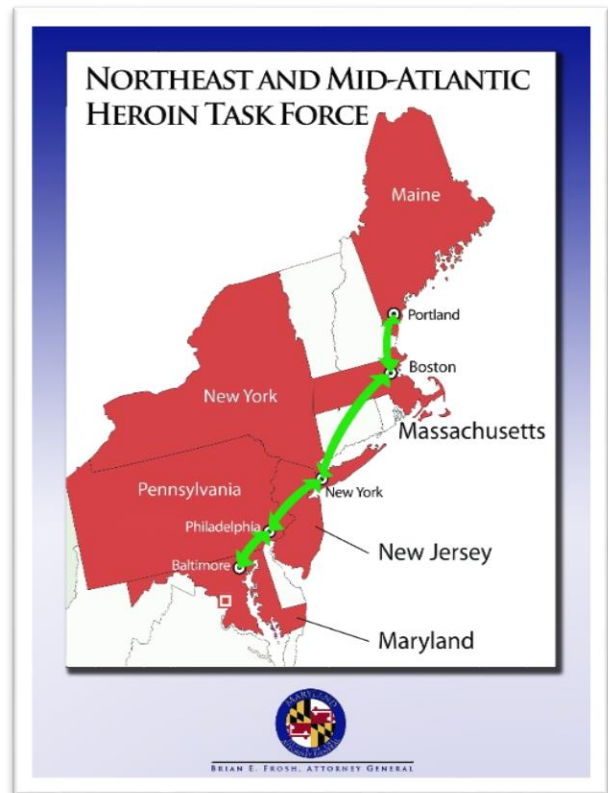
POLICY AND ENFORCEMENT PRIORITIES

Public Safety

Nothing is more important than the safety of Maryland residents. The Office of the Attorney General has been focusing our resources strategically to build safer streets and communities.

Fighting opioid addiction In February 2015, Attorney General Frosh announced that Maryland joined the Northeast and Mid-Atlantic Heroin Task Force, a group that is leveraging the resources of several states to combat the growing and dangerous cross-border distribution of heroin. Prosecutors in the Maryland Office of the Attorney General have joined counterparts in New York, Pennsylvania, New Jersey, Massachusetts and Maine as part of the task force. “Sharing information and pooling resources is important to combat a public health and safety crisis,” Attorney General Frosh said in making the announcement.

Additionally, the Office of the Attorney General is a member of the Governor’s Heroin and Opioid Emergency Task Force, and is working with stakeholders across the state to develop best-practice solutions to combat addiction and related crime.



Leveraging resources with local prosecutors The Office of the Attorney General is now working directly with State’s Attorneys throughout Maryland on a new initiative launched in 2015 to handle complex multi-defendant, multi-jurisdictional cases. Our office has invited every prosecutor in Maryland to join one of four new task forces: Organized Crime, Environmental Enforcement, Fraud and Corruption, and Crimes of Exploitation.

The task forces facilitate the exchange of information, build relationships, and provide additional resources so that local prosecutors can develop and prosecute important cases.

Prosecuting major cases

Prosecutors in the Office of the Attorney General brought charges and earned convictions in

several important cases in 2015. Highlights include:

Drug ring: In November 2015, the Office announced that 15 men were indicted by a Baltimore grand jury for allegedly conspiring to distribute cocaine and heroin near Greenmount Avenue in East Baltimore. The indictments capped a months-long collaborative investigation between the Baltimore City Police Department and the Organized Crime Unit of the Maryland Attorney General's Office. The indictments allege that the drug organization had been responsible for daily trafficking of illegal narcotics in and near the 2400 block of Greenmount Avenue.

Black Guerilla Family: A ranking member of the notorious Black Guerilla Family was convicted in August 2015 of first-degree murder, conspiracy, firearms violations, and participating in a criminal gang in a case prosecuted by the office. David Hunter was sentenced to two consecutive life terms for a 2011 execution-style murder in East Baltimore. The conviction and sentencing closes a long chapter of violence perpetrated by one of the most ruthless gang members in Baltimore history.

Bid rigging scheme: In October 2015, the former maintenance director of a state psychiatric hospital in Carroll County was indicted in relation to an alleged phony bidding scheme that steered nearly a half-million dollars in work to a local business which was unlicensed to do many of the repair tasks. The alleged scheme came to light during a regularly scheduled review of Springfield Hospital Center by the Maryland Office of Legislative Audits. State auditors uncovered the suspicious contracts and notified the Office of the Attorney

General. The Criminal Division of the Attorney General's Office and the Maryland State Police conducted a joint investigation leading to the indictments.

Insurance fraud: A College Park man was indicted in November 2015 for allegedly filing dozens of fraudulent claims against a long-term care insurance policy purchased by his mother, collecting more than \$80,000 after she died.

Consumer Protection

Protecting Marylanders from fraud and deceptive business practices is an essential function of the Office of the Attorney General.

Every day, Marylanders face challenges and have questions about transactions that are part of daily life. They may sign up for phone service that doesn't work the way it was promised. Or, they have trouble getting a warranty repair or a medical bill paid by their insurance company.



The Office of the Attorney General is poised to help. In FY 2015, the Consumer Protection Division, which includes the Health Education and Advocacy Unit, assisted more than 9,000 Marylanders who filed complaints, reclaiming \$11.9 million for them.

In addition to individual claims, the Office undertakes major investigations and participates in litigation with successful outcomes for Marylanders. Here are some of the major cases from 2015:

Scam cancer charities Maryland was part of an unprecedented national crackdown against four sham charities accused of raising tens of millions of dollars to purportedly assist cancer victims that instead funded salaries, cruises and concert tickets. In May 2015, Maryland participated in a complaint in federal court against the Cancer Fund of America, the Children's Cancer Fund of America, Cancer Support Services and the Breast Cancer Society. According to the complaint, the charities raised a combined \$187.1 million between 2008 and 2012, using marketing calls and direct mail to portray themselves as national organizations on the front lines of



care and assistance. But more than 85 percent of the money raised went to reimbursing fund raisers, and much of the rest paid for salaries, vacations and other personal expenses for founders, their family members and board members. Less than 3 percent of donated money went to programs

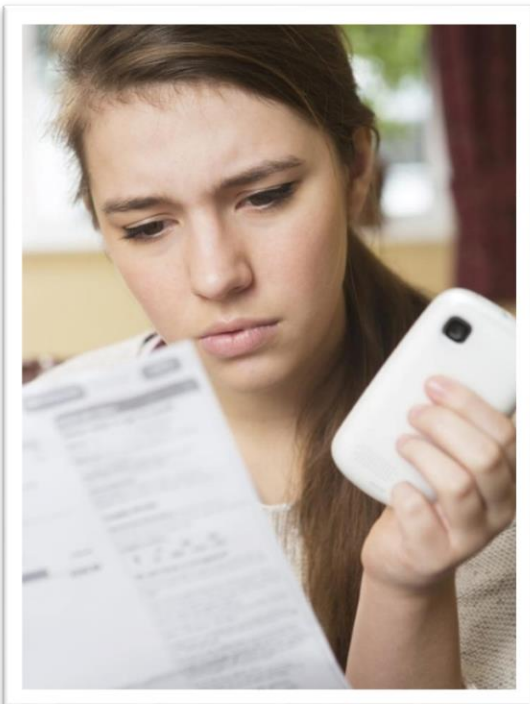
as claimed. Two of the four charities - the Children's Cancer Fund and the Breast Cancer Society - were immediately dissolved through a settlement agreement. The founders and operators agreed to leave the charity business and halt fund-raising, and have agreed to judgments against them of \$137 million.

Credit card collection Following an investigation into debt collection practices, Maryland announced a settlement in July 2015 with Chase Bank USA N.A., and Chase Bankcard Services, Inc., to stop unlawful credit card collection efforts, halt questionable collections and ensure restitution for customers. As a result, the debt-collection actions against about 8,000 Marylanders were halted. Chase agreed to safeguard the accuracy of its debt data and to prohibit those who buy its uncollected debt from reselling it. The investigation showed that Chase subjected hundreds of thousands of consumers to collection activity for debt that wasn't theirs or was listed in the wrong amount. Improperly filed lawsuits, and other documents using "robo-signings," were stopped. A \$136 million national settlement includes \$106 million to be paid to participating states, including Maryland. The agreement requires Chase to reform its credit card debt collection practices by establishing new safeguards to help ensure debt information is accurate and to correct inaccuracies by providing additional information to consumers who owe debts, as well as by barring individuals and companies who purchase the debt in hope of collecting on it from reselling that debt.

High-interest consumer loans

The Office of the Attorney General worked with the Maryland Commissioner of Financial Regulation to shut down Cash-Call Inc. and uphold a \$5.65 million fine, arguing that the company known for television ads aimed at people seeking loans operated as a “credit services business” in the state without a license. The Maryland Court of Special Appeals found in October 2015 that CashCall’s business practices “are precisely the sort of activities” state laws “were enacted to prevent.” CashCall arranged 5,651 loans for Maryland consumers between 2006 and 2010 at amounts ranging from \$1,025 to \$5,025 at annual interest rates ranging from 59 to 96 percent, which far exceed rates permitted under state law.

Mobile cramming Attorney General Frosh announced in May 2015 settlements with two major cellular phone carriers over



allegations of mobile cramming - when consumers are charged for third-party services they did not authorize - resulting in \$158 million in refunds to consumers and penalties. Consumers were being charged for services they never signed up for, and, in many cases, charges they never knew about because the fee was so hard to spot on their bills. Consumers who have been “crammed” often receive charges - typically \$9.99 per month - for “premium” text message subscription services (also known as “PSMS” subscriptions) such as horoscopes, trivia, and sports scores that the consumers neither knew about nor requested. Combined with similar nationwide settlements last year with mobile carriers T-Mobile and AT&T, \$290 million in refunds are now available for consumers who were crammed. An estimated 700,000 Maryland customers have been victims of cramming charges and are eligible for refunds.

Title kickback schemes The Office of the Attorney General reached a settlement with Wells Fargo Bank and JPMorgan Chase Bank in January 2015 to resolve allegations that the financial firms illegally steered customers to a now-defunct Maryland-based title company in exchange for marketing services that increased their customer base. From 2009 to 2013, Genuine Title, LLC, allegedly provided marketing leads, direct-mail letters and other costly services to loan officers from Wells Fargo and Chase, which increased the number of loans that the banks originated or refinanced, thereby boosting their commissions. In exchange, the loan officers re-

ferred consumers to Genuine Title for settlement services. The kickback scheme occurred during a hot mortgage refinancing market when interest rates were very low. Under the agreement, Wells Fargo will provide \$10.8 million in restitution to customers who used a Wells Fargo loan officer and closed a settlement with Genuine Title between September 2011 and early 2014. Wells Fargo will also pay penalties of \$21 million to the CFPB and \$3 million to the Consumer Protection Division. Chase will provide \$300,000 in restitution and pay penalties of \$500,000 to the CFPB and \$100,000 to the Consumer Protection Division.

Preserving competition in the wholesale food industry

Attorney General Frosh announced in June 2015 that a challenge to the merger of the nation's two largest foodservice distributors had been successful, with a federal judge blocking the transaction and the companies abandoning the effort. The Maryland Office of the Attorney General Antitrust Division joined with the Federal Trade Commission, nine other states and the District of Columbia to halt the merger of Sysco Corp. and USF Holding Corp., or US Foods. Sysco and US Foods are the two largest foodservice distributors in the United States, and compete to sell to restaurants, hotels, hospitals schools and other facilities in Maryland and throughout the country. The combined entity would have controlled approximately 75 percent of the national market and 80 percent of the market in Annapolis and the Baltimore-Washington corridor.

Environmental Enforcement

Clean Power Plan Attorney General Frosh announced in November 2015 that he is joining 16 other states, the District of Columbia and some of the nation's largest cities in support of the Obama administration's plan to combat climate change by reducing carbon emissions from power plants. With rising sea levels claiming islands in the Chesapeake Bay, and extreme weather events threatening neighborhoods, homes and our natural resources, climate change poses an existential threat to Maryland, says the Attorney General. In August, the White House unveiled the Clean Power Plan as a centerpiece of national efforts to combat climate change. The plan would reduce carbon dioxide



emissions by 32 percent by 2030, and increase the proportion of power generated by renewable sources (such as wind and solar) to 21 percent, up from 12 percent. To protect the health and safety of Marylanders, the Maryland Office of the Attorney General is joining a group of 25 jurisdictions, including states and cities such as New York, Chicago and Philadelphia, in asking the United States Court of Appeals

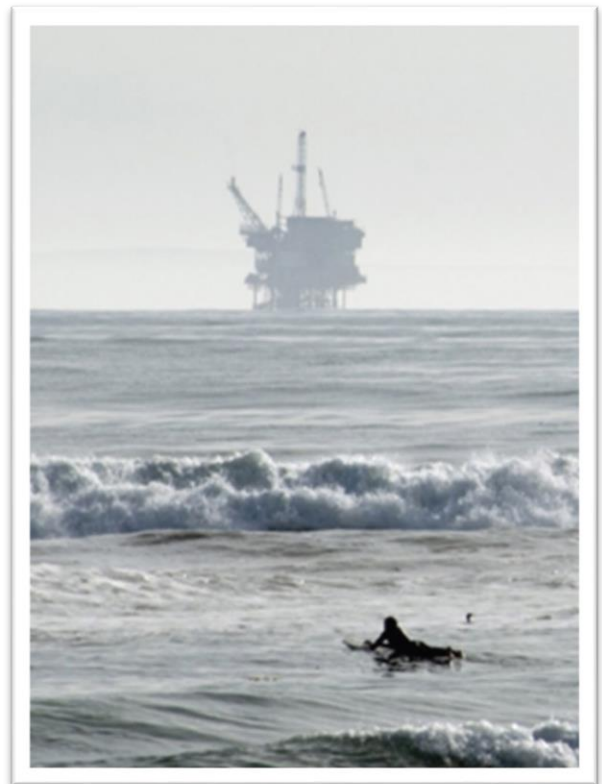
for the District of Columbia Circuit to allow them to intervene as respondents in support of the U.S. Environmental Protection Agency. Maryland is in the midst of its own plan to reduce greenhouse gases. As a member of the Regional Greenhouse Gas Initiative, Maryland and neighboring states are on track to meet the objectives of the Clean Power Plan. The initiative is a partnership which includes Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. Each of those states is part of the legal effort to uphold the EPA rules.

Offshore drilling opposition

Attorney General Frosh in March 2015 announced his strong opposition to drilling in the Atlantic Region's Outer Continental Shelf, and called on the federal government to halt the plan that would open coastal waters to oil and gas exploration. In comments submitted to the U.S. Department of the Interior, Frosh said that Maryland's natural resources would be degraded at every step in what he called an unnecessary and unwise process of exploring for oil and gas. Each phase of exploration carries needless risks, from the testing and drilling needed to locate deposits, to the damage done during extraction and transport of fuels, not to mention the inevitable spills that occur. Many segments of Maryland's economy would be placed at risk from the proposal – from the \$4 billion mid-Atlantic fisheries industry to the \$1 billion in tourism spending in Ocean City and Worcester County.

Potomac River clean-up The Office of the Attorney General helped obtain

a consent decree settling a lawsuit filed by environmental organizations over millions of pounds of pollution being dumped into the Potomac River from a Washington Suburban Sanitary Commission (WSSC) water filtration plant. The consent decree will lead to a multi-million dollar overhaul or replacement of the Potomac Water Filtration Plant, eliminate more than 2 million pounds of sediment, aluminum and other pollutants discharged to the river annually between 2016 and 2019, and more than 3 million pounds a year afterward. The settlement is a result of legal action launched in February 2014 by the Chesapeake Bay Foundation, Environmental Integrity Project and the Potomac Riverkeeper, and joined later by the Maryland Department of the Environment. It requires WSSC to pay a \$100,000 penalty to resolve alleged violations of the facility's discharge permit.



In this case, vigilant advocates and government regulators responsible for protecting our precious natural resources worked together to benefit Marylanders.

Sparrows Point clean-up The Office of the Attorney General participated in the negotiation of a settlement with the company hired for the demolition of the former Sparrows Point steelmaking facility, which along with the former owner of the Baltimore County steel mill property are to undertake more than \$3 million in projects to benefit the environment. The agreement settles alleged violations of state environmental laws during demolition activities at the site, and includes a payment of \$1.5 million. Of that, \$375,000 is to be paid in



cash by HRE Sparrows Point LLC, former owner of the above-ground facilities at the site. The remaining \$1.125 million is to be offset by one or more environmental projects commissioned by Sparrows Point LLC, the former owner of the real estate that was home to the steel mill, and MCM Management Corporation, the company contracted for demolition and removal activities. Inspections of the property by the Maryland Department of the Environment in 2013 and 2014 found that Storm Water

Pollution Plans that had been submitted were not being fully implemented, that the controls in place were not adequate to protect stormwater from contamination from ongoing activities and that pollutants were placed in positions where they were likely to pollute waters, among other violations.

Open Government

Because sunlight is the best disinfectant, the Office of the Attorney General is overseeing the most significant expansion of the state's public information requirements in a generation. The General Assembly approved, with the input of the Attorney General, the creation of a new position to mediate, facilitate and resolve concerns between government agencies and the public, media and others seeking information from them. The Public Information Act Ombudsman will reside in the Office of the Attorney General, and will provide important additional resources to insure that Maryland citizens get the information they need and want from their government.

The Office will also provide resources to a newly created Public Information Act Compliance Board, intended to resolve disputes and provide consistency regarding fees charged by government agencies and departments when responding to PIA requests.

Pro bono and community involvement

The quality and commitment of lawyers and staff in the Office of the Attorney General is impressive. With skills honed by years of education and practice, attorneys in the Office undertake detailed research, write strong and compelling briefs and opinions, and find solutions to complex problems.

But with the privilege of professionalism comes responsibility. A responsibility to give back to the community. A responsibility to make justice - and the legal system - accessible to all. That is why the Office of the Attorney General has a robust and growing pro bono program.

Individuals in need of legal help are matched with lawyers who can assist them with a variety of tasks. Our lawyers help children, the elderly, our nation's veterans, and many others. We are committed to making sure we give back to the community both through our public service mission, and in other ways.



During the 2015-16 school year, several members of the Office

are serving as mentors to the 11th grade Law Academy from Mergenthaler Vocational Technical High School in Baltimore. We have made this connection through a partnership with the Community Law in Action (CLIA) Corporate Mentoring Program. This mentoring program reinforces the skills learned in school-based law programs and exposes students to the professional workplace.

The overall mission is to inspire youth from diverse backgrounds that are underrepresented in the

legal profession and youth from targeted communities to strive for higher education and careers in the legal field.





MARYLAND ATTORNEY GENERAL
BRIAN E. FROSH