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YEAR IN REVIEW

2016

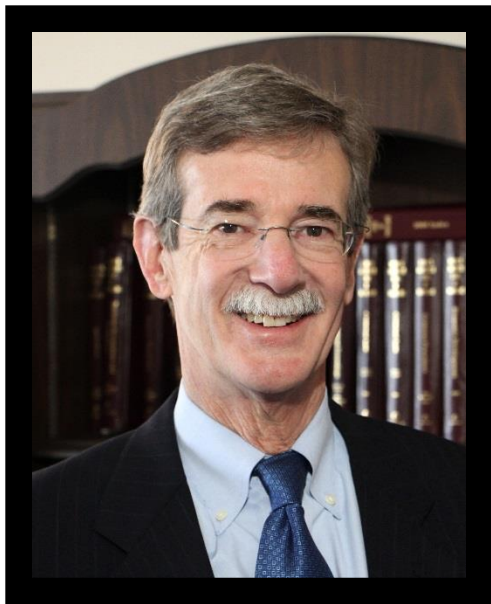
# MARYLAND OFFICE OF THE ATTORNEY GENERAL YEAR IN REVIEW 2016

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2016 was another productive year for the Maryland Office of the Attorney General. We were vigilant in protecting Marylanders from fraud and abuse, and continued to fight for justice and civil rights. Our attorneys represented a broad range of clients with professionalism and skill, working 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 written in a cursive, flowing style.

Brian E. Frosh

Maryland Attorney General

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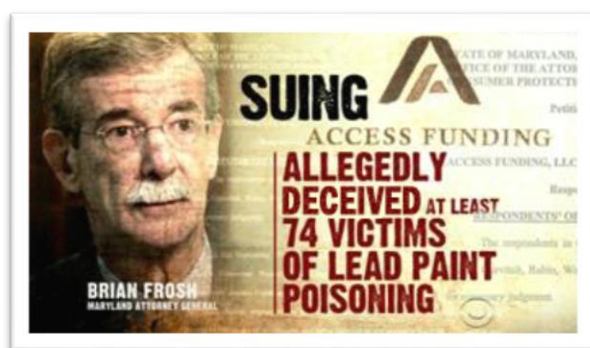
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# MAJOR INITIATIVES

## Structured Settlement Reform

Protecting our most vulnerable citizens is one of our most important duties as attorneys. In May last year, we filed suit against Access Funding for misleading victims of lead paint poisoning and other injured Marylanders into converting future structured settlement payments into immediate cash.

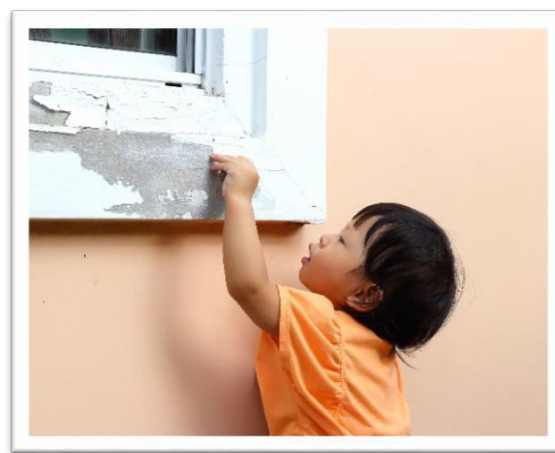


The Office of Attorney General alleges that Access Funding aggressively targeted young, intellectually-impaired Marylanders, including numerous groups of Baltimore City siblings who were exposed to lead paint as children in their family homes. The complaint further alleges that the company arranged for its customers to get sham “independent professional advice” about these transactions from a Maryland lawyer who secretly functioned as a member of Access Funding’s own team. In addition, according to the lawsuit, injured Marylanders who did business with Access Funding, after relinquishing future settlement payments intended to support them for years or decades into the future, received cash equivalent to only a fraction of the value of the future payments. Access Funding committed fraud on the Maryland courts that approved these transactions, including by falsely asserting that its injured

and cognitively-impaired customers received the independent professional advice that Maryland law requires as a prerequisite to the transactions.

The Office of Attorney General is seeking restitution for the injured Marylanders, as well as civil penalties. The Office is also seeking to void prior transfers of structured settlement payment rights.

The Office of the Attorney General also fulfilled its top legislative priority of the year when the General Assembly adopted the Structured Settlement Transferee Statute, requiring that a person or company seeking to acquire structured settlement payment rights, known as a “structured settlement transferee,” must register with the Office of Attorney General. Transferees may not file a court petition initiating a transaction with a Maryland consumer unless it is registered with the Office of Attorney General. The entities must also petition a Maryland court for authorization of the transfer.



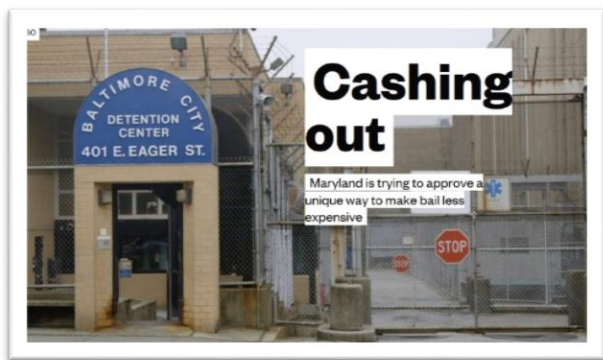
This statute enhances protections for victims of lead poisoning and other Maryland tort victims from predatory and deceptive practices by entities seeking to induce them to transfer future settlement payments to which they may be entitled. The new law went into effect on

October 1, 2016. Since the law took effect, the Office of the Attorney General has devoted staff resources to registering transferees and monitoring transactions with the courts.

## Bail Reform

The number of people detained pretrial in Maryland continues to rise, and in many instances people are held in jail in Maryland only because they are too poor to post bail. In October, our office urged members of the Standing Committee on Rules of Practice and Procedure to consider changes to Maryland Rule 4-216 to ensure that judicial officers conduct an individualized inquiry into a criminal defendant's ability to pay bail and not set financial conditions solely for the purpose of detaining a defendant.

In the letter, Attorney General Frosh stated: "Numerous studies have documented that Maryland's pretrial system currently operates, though not by design or intent, in a manner that is often inconsistent with State and federal law, ineffective at addressing public safety concerns, disproportionately burdensome to communities of color, and inefficient in its use of State and local resources."



The letter also stated: "State law and constitutional principles demand that, in cases where it is not necessary to detain a defendant to ensure

appearance at trial or to protect public safety, conditions of release from pretrial detention should be the least onerous necessary to serve those important public interests."

In the letter, Attorney General Frosh noted that, "Reliance on a wealth-based pretrial detention system disproportionately affects people of color, whose median household incomes are the lowest in the country. The Pretrial Justice Institute found that, nationally, there is a significant correlation between race and levels of bail. African American men receive bail that is 35% higher than bail given to white men; Hispanic men receive bail that is 19 percent higher than white men. These racial inequities also exist in Maryland." "Lastly, Maryland's current pretrial system significantly burdens Maryland taxpayers. According to the 2014 Commission Report, pretrial detention costs the state somewhere between \$83 and \$153 a day for each of the 7,000 plus defendants who are detained in jail awaiting trial at any given time in Maryland."

The letter was sent to the Chair and Vice Chair of the Standing Committee on Rules of Practice and Procedure. In February 2017, the Rules Committee voted 7-0 in favor of changing the state's policies on bail.

## Debt Collection

Our office made great progress in protecting Marylanders from unscrupulous financial practices that exploit some of our most vulnerable residents, including the passage of one of our priority pieces of legislation for consumers who face improper and harassing debt collection. The bill ensures that proper and sufficient documentation is presented in court to prevent

inappropriate debt collection actions. Specifically, the bill bars collection actions after the statute of limitations has expired, and requires that third party debt buyers must present certain documents to obtain a court-ordered collection action, including evidence of the agreement between the original creditor and debtor and documents establishing the debt buyer's ownership of the account. Third-party debt buyers file approximately 30,000 cases in Maryland courts each year. The majority of the time, consumers don't appear, or don't have lawyers. This bill helps to ensure that the process for debt collection is fair for consumers.

## TOBACCO

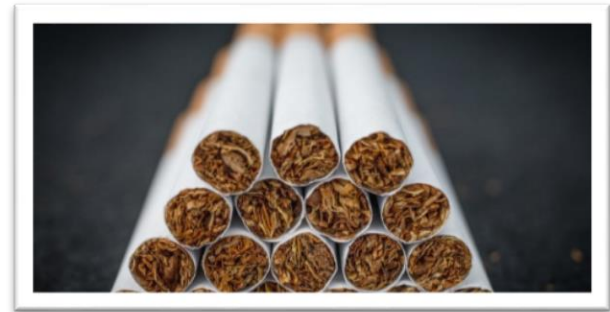
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### Tobacco Litigation

The final chapter in the long saga of the 2003 NPM Adjustment Dispute ended with a victory for Maryland on October 11, 2016, when the United States Supreme Court denied an attempt by Philip Morris, RJ Reynolds, and other cigarette companies to undo an Opinion of the Court of Special Appeals and claw back over \$53 million of tobacco settlement funds they had wrongly withheld.

The Supreme Court's 2016 decision removed the cigarette companies' last avenue of appeal and set a precedent that will help the OAG protect Maryland's right to recover all the money it is due under the 1998 tobacco settlement. In an arbitration convened under that agreement, a three-judge panel of retired federal judges entered an order in March 2013 that changed the formula determining how much of the tobacco companies' annual \$7

billion settlement payment Maryland would receive. The Court of Special Appeals vacated that order in 2015, and the Supreme Court's decision last October ended the dispute over the arbitration panel's order.



The Tobacco Enforcement Unit is now preparing to arbitrate against the cigarette companies in the 2004 NPM Adjustment Dispute. Maryland's success in state and federal court will help ensure that the State will continue to recover all funds due to it under the 1998 tobacco settlement.

## POLICY AND ENFORCEMENT PRIORITIES

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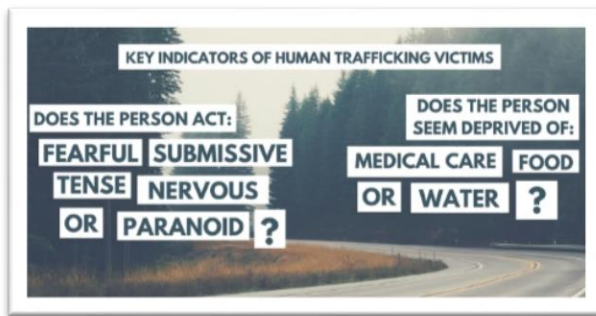
### Public Safety

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

**Human Trafficking** Through a collaboration between the Prince George's State's Attorney's Office, the Prince George's County Police Department, the Maryland State Police

and the Office of Attorney General's Organized Crime Unit, our office announced the indictment of three members of a multijurisdictional Maryland-based human trafficking enterprise. The joint investigation resulted in a Grand Jury multi-count indictment against Rashid Marwan Mosby, 42, Terra Marie Perry, 35, and Joshua Isaiah Jones, 26.

The trafficking of women for prostitution is a widespread and worldwide practice that places vulnerable individuals at risk of exploitation and violence, and it is a problem even in our own back yards. According to the indictments, the co-defendants posted more than 100 advertisements on backpage.com and featured sexually explicit images and language to solicit customers for sexual services arranged by the co-defendants and performed by the victims. Proceeds from the sexual services were given to the defendants.



As a result of the investigation, the indictments allege that the co-defendants recruited their victims throughout Maryland and surrounding states. Among the victims were two teenagers, including a young woman from New Jersey and a juvenile who was lured from North Carolina. Once trafficked into the state of Maryland, the victims were manipulated and threatened into prostitution. The co-defendants op-

erated their criminal enterprise by renting dozens of hotel rooms throughout Maryland to place and harbor victims for the purposes of sexual encounters. The victims were trafficked to and from the hotels using coercion, deception, intimidation, and physical violence. An indictment is not a finding of guilt. A person is innocent unless and until proven guilty.

## Creation of a Hate Crime Hotline



After an up swell of hate incidents reported in Maryland and across the nation, our office launched a hotline for Maryland to serve as a bridge to resources for potential victims. The 1-866 number is staffed by volunteers. Persons engaging in conduct motivated by a victim's race, color, national origin, gender, gender identity, religion, sexual orientation, disability or homeless status, risk civil liability or criminal prosecution under Maryland's civil rights and hate crimes statutes. Our office continues to be committed to working with local law enforcement, state and county governments, local school systems, higher education systems, and communities to enforce these laws.

## Partnerships to Combat Heroin Trafficking



Our office joined U.S. Attorney Rod Rosenstein and state and federal officials throughout the country in proclaiming the week of September 19th as “Heroin and Opioid Awareness Week” to bring attention to the epidemic of heroin and opioid-related overdose deaths in Maryland. Opioid and heroin addiction and abuse across the nation is rampant. In Maryland alone, heroin-related deaths increased by over 200% from 2011 to 2015, rising from 247 to 748. There has also been an alarming spike in deaths from fentanyl, rising 105% during the first quarter of 2016 as compared to the same time in 2015. The increases in overdose deaths are not just seen in Maryland’s larger cities – they have been reported throughout the state, including western and central Maryland and the Eastern Shore. Raising awareness is just one step in addressing this widespread, complex epidemic in our State. Opioids are highly addictive and extremely dangerous, altering the users’ brain permanently, even after just one use.

Our goal is to educate as many people as possible so that we save lives, and prosecute those who traffic illegal heroin into Maryland. Addiction to opiates is dangerous, whether obtained through prescriptions or on the street. Every heroin overdose in Maryland is being investigated as a homicide by the Office of Attorney General’s Organized Crime Unit, in an effort to identify the distributor. Together with the Drug Enforcement Agency and the State’s Attorneys of Maryland, the Maryland Attorney General’s Office and the U.S. Attorney’s Office are developing a best practices model on gathering evidence required for criminal prosecution. The Organized Crime Unit of the Attorney General’s Office has prioritized combatting the heroin epidemic by focusing on dismantling the most dangerous drug organizations across the State. Since its inception in

2015, the Organized Crime Unit has indicted over 50 drug traffickers – from the traffickers who knowingly distribute fatal doses of heroin – usually cut or mixed with fentanyl – to the violent trafficking organizations that profit off of addicted individuals. The Unit, in coordination with local, state, and federal prosecutors and law enforcement agencies, is currently investigating dozens more cases and is committed to continuing to aid in the fight against this tragic epidemic.

Many people become addicted to legally prescribed opiates, but switch to heroin, fentanyl or other drugs, when they can no longer obtain their prescription. A 2014 national survey found an estimated 1.4 million people in the U.S. abused a prescription painkiller for the first time that year. Approximately one in five high school seniors reports misusing prescription drugs at least once. The Maryland Attorney General’s Office and U.S. Attorney’s Office will continue to work with federal, state and local law enforcement as well as medical and public health authorities, community groups and concerned citizens to develop a coordinated response across all elements of government. Our enforcement efforts are much more effective when they are part of a larger strategy that seeks to educate potential drug users and prevent their involvement with opioids in the first place.

## Prosecuting major cases

Prosecutors in the Office of the Attorney General brought charges and earned convictions in several important cases in 2016. Highlights include:

**Drug ring:** Capping a months-long undercover investigation, prosecutors with the Attorney General's Organized Crime Unit obtained indictments from a Baltimore grand jury, charging 26 individuals who were operating as part of five separate drug organizations with allegedly conspiring to distribute heroin and cocaine in Northwest Baltimore. The indictments were announced after a collaborative investigation between the Office of Attorney General, the Baltimore City Police Department, the Baltimore Bureau of Alcohol, Tobacco, Firearms and Explosives, the U.S. Attorney's Office, and the Baltimore City State's Attorney's Office. The indictments allege that the drug organization is responsible for daily trafficking of illegal narcotics in neighborhoods near Park Heights Avenue, West Belvedere Avenue, Oakley Avenue, and Pimlico Road. According to the indictments, members of five organizations operating in the area sold heroin and cocaine to undercover officers. Some members are alleged to have used juveniles to make sales; others are alleged to have sold illegal narcotics near neighborhood elementary schools. Search warrants led to the recovery of hundreds of vials and bags of heroin and cocaine packaged for distribution, along with a stolen loaded firearm. The area has been subject to gun violence that police say may be related to drug trade in the neighborhood. Many of those charged in the indictments have prior arrests and convictions for crimes of violence including attempted murder, armed robbery, assault, burglary, and handgun violations.

## Tax Filing Scheme

The Office of Attorney General and the Maryland Comptroller's Office announced the indictments of nine people in connection with a

fraud scheme which involved enticing homeless people and others to file false income tax returns to generate preparation fees for their company. The charges stem from a scheme allegedly perpetrated by the owner and tax preparers of several Liberty Tax franchises in Baltimore, who are charged with generating fraudulent returns which specifically exploited a portion of the tax code known as the Earned Income Tax Credit.



According to the joint investigation by the Comptroller's Office and the Office of the Attorney General, Liberty Tax preparers operating from certain Baltimore locations owned by the same individual would direct marketing efforts at homeless shelters, transitional housing and drug rehabilitation centers, with a promise of \$50 if filers arrived for a return to be prepared. The tax preparers would then create a fraudulent return that maximized the credit the filer could receive. The credit is intended to provide extra income to the working poor, incentivizing them to work without creating a tax penalty. In every case, according to the indictments, the preparers created returns showing that the filers earning income as household employees in exactly the range needed to obtain the highest refund, or between \$6,450 and \$8,150.

In each instance, preparers listed income from several sources, each under the limit that would have triggered Social Security or Medicare taxes being withheld by the employer. In a typical case, the return would show that the filer was eligible for a combined \$620 in federal and state credit. But most of the money, more than \$400, would go to the Liberty franchise for filing fees and other charges.

That system was used more than 1,100 times during the 2015 tax season across six franchise locations owned by a single individual, Lateisha Vanessa Kone, according to the indictments. Liberty Tax generated fees for the franchise owner, and were eligible to receive bonuses based on the number of returns they filed, and the amount of the fees they generated. Because of security checks in place by the Office of the Comptroller and the Internal Revenue Service, the returns were flagged as suspicious, prompting the investigation.

## 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 prepared to help. In FY 2016, the Consumer Protection Division, which includes the Health Education and Advocacy Unit, assisted more than 9,500 Marylanders who filed complaints, reclaiming \$8.16 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 2016:

## Volkswagen

In June, Maryland was part of a national settlement with Volkswagen which required Volkswagen to pay more than \$570 million for violating state laws including unfair or deceptive trade practices by marketing, selling and leasing diesel vehicles equipped with illegal and undisclosed defeat device software. This agreement is part of a series of state and federal settlements that will provide cash payments to affected consumers, require Volkswagen to buy back or modify certain VW and Audi 2.0-liter diesel vehicles, and prohibits Volkswagen from engaging in future unfair or deceptive acts and practices in connection with its dealings with consumers and regulators. Volkswagen must pay more than \$15 million to settle the claims brought by the Maryland Office of Attorney General. The investigation confirmed that Volkswagen sold more than 570,000 2.0- and 3.0-liter diesel vehicles in the United States equipped with “defeat device” software intended to circumvent applicable emissions standards for certain air pollutants, and actively concealed the existence of the defeat device from regulators and the public. Volkswagen

made false statements to consumers in their marketing and advertising, misrepresenting the cars as environmentally friendly or “green” and that the cars were compliant with federal and state emissions standards, when, in fact, Volkswagen knew the vehicles emitted harmful oxides of nitrogen (NO<sub>x</sub>) at rates many times higher than the law permitted.



Under the settlements, Volkswagen is required to implement a restitution and recall program for more than 475,000 owners and lessees of 2.0-liter diesel vehicles, of the model years 2009 through 2015 at a maximum cost of just over \$10 billion. This includes 16,326 vehicles in Maryland.

The coordinated settlements resolve consumer protection claims raised by a multistate coalition of 43 State Attorneys General against Volkswagen AG, Audi AG, and Volkswagen Group of America, Inc., Porsche AG and Porsche Cars, North America, Inc. – collectively referred to as Volkswagen. The Maryland Office of the Attorney General served on the multistate coalition’s Executive Committee.

Volkswagen also entered into settlements to resolve actions brought by the United States Environmental Protection Agency (EPA) and

Department of Justice (DOJ), the Federal Trade Commission (FTC), the State of California, and car owners in private class action suits.

Affected Volkswagen owners will receive restitution payment of at least \$5,100 and a choice between: a buy back of the vehicle (based on pre-scandal NADA value); or a modification to reduce NO<sub>x</sub> emissions provided that Volkswagen can develop a modification acceptable to regulators. Owners will still be eligible to choose a buy back in the event regulators do not approve a fix. Owners who choose the modification option would also receive an Extended Emission Warranty; and a Lemon Law-type remedy to protect against the possibility that the modification causes subsequent problems.

**Hyundai/Kia** In other auto news, the Office of Attorney General reached a settlement with Hyundai Motor Company, Hyundai Motor America, Kia Motors Corporation, Inc., and Kia Motors America, Inc., resolving claims that the companies misrepresented the mileage and fuel economy ratings for some of their model year 2011, 2012 and 2013 vehicles. The \$41.2 million settlement concluded a multi-state investigation into the companies’ business practices related to downgraded fuel economy estimates on affected vehicles. Maryland joined 33 states and the District of Columbia in the settlement. The companies must pay \$1.38 million to resolve the claims brought by the Maryland Attorney General’s Office.

In November 2012, Hyundai and Kia announced they were adjusting and restating the fuel economy ratings for certain model year 2011, 2012 and 2013 vehicles because those ratings were higher than those vehicles’ actual fuel economy. Attorney General Frosh, along

with 33 other attorneys general, alleged that Hyundai and Kia incorporated inflated and inaccurate test data into the estimated mileage ratings displayed on hundreds of thousands of vehicles in Maryland and across the country. The attorneys general also alleged that the companies sought to capitalize on the erroneous mileage estimates by prominently featuring them in a variety of advertisements and other promotional campaigns. The manufacturers have separately provided restitution to consumers injured by its mileage advertisements.

**Scam cancer charities** Maryland dissolved two sham cancer charities, after an unprecedented national crackdown. In coordination with the Maryland Secretary of State's Office, the Office Attorney General dissolved two sham cancer charities, after an unprecedented national crackdown.



The charities, Cancer Fund of America and Cancer Support Services, Inc., their presidents, and their affiliates, are banned from profiting from charity fundraising in the future. The charities claimed to help cancer patients, but instead spent the overwhelming majority of

donations on trips, gifts and salaries for operators, families and friends, as well as on fundraising activities.

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.

Under the settlement order, CFA and CSS will be permanently closed and their assets liquidated. Their presiding officers are permanently banned from profiting from charity fundraising and nonprofit work, and from serving as a charity's director or trustee or otherwise managing charitable assets.

**Southern Maryland Veterans Association** The Office of Attorney General along with the Secretary of State's Office issued a cease and desist order against a sham

veterans charity that had been unlawfully soliciting for months at dozens of retail locations throughout Southern Maryland including grocery stores, restaurants, and large shopping centers. To induce cash donations, the group used a forged registration letter of the Secretary of State's Office, and misled the public about a homeless veteran's shelter that did not exist. In addition, the group could not account for its cash donations, and failed to file required reports with the Secretary of State's Office. The cease and desist order received a lot of local media attention, and effectively shut down the widespread soliciting that had preceded the order.

The group's director appealed the cease and desist order, and the Attorney General's Office helped the Secretary of State conduct the first contested case hearing under the Maryland Solicitations Act in at least 15 years. On June 23, 2016, following the contested case hearing, the Secretary of State affirmed the cease and desist order, which was appealed to the Prince George's County Circuit Court. On February 3, 2017, the appeal was dismissed by the circuit court, leaving in place the final order that the group and its director cease all charitable soliciting in Maryland.

**USA Discounters** In September, our office reached a settlement with USA Discounters, also doing business as USA Living and Fletcher's Jewelers, for engaging in unfair, abusive, false and deceptive acts.

While USA Discounters did not admit to any wrongdoing, the retailer agreed to forgive

\$95.9 million in debt nationwide for consumers, \$10.2 million of which would provide relief to approximately 5,700 Maryland consumers.

USA Discounters was a nationwide retail business that sold consumer products, including furniture, appliances, televisions, computers, smart phones, jewelry and other consumer goods principally on credit. USA Discounters closed its stores in the summer of 2015 before later declaring bankruptcy. Attorney General Frosh, along with 49 other attorneys general, alleged that USA Discounters engaged in unfair, abusive, false and deceptive acts and practices to sell overpriced household goods at high interest rates, often using the military allotment system to guarantee payment. The states alleged USA Discounters engaged in abusive debt collection tactics, constantly contacting service members' chains-of-command, and causing some service members to lose security clearances and face demotions. The states also alleged that USA Discounters primarily filed its lawsuits against service members in Virginia jurisdictions, no matter the service member's location, deployment status, or residence, which resulted in service members being unable to defend themselves in court.

USA Discounters agreed to write off all consumers' account balances whose contract with USA Discounters was dated June 1, 2012 or earlier; apply a \$100 credit to all consumers' account balances whose contract with USA Discounters was dated after June 1, 2012; write off all judgments that were not obtained in the state of residence for the service member; correct the negative comment from the company on consumers' credit reports; and credit certain judgments obtained against military service members with 50 percent of the original judgment amount.

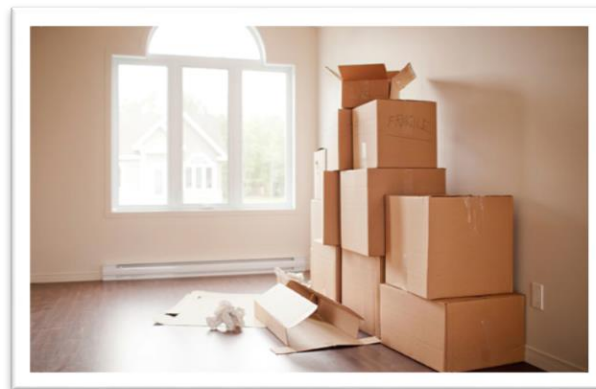
**Moving Scams** A Final Order was issued against Best Offer Moving Company, LLC and those who ran it, Andrii Dziapka and Karina Sokol for repeatedly violating the Consumer Protection Act and the Maryland Household Goods Movers Act. The Final Order required them to return money to consumers and pay penalties and costs amounting to \$549,226.45. Best Offer was found to have violated Maryland law on every single one of the 391 Maryland moves it performed since it began operating in 2014.

On any move that takes place within Maryland, movers cannot charge consumers more than 125% of their estimate, and under no circumstances can a mover refuse to deliver a consumer's goods once they've been loaded onto the truck.

The Final Order found that Best Offer systematically charged consumers more than is allowed by law and, on some occasions, held consumers' goods hostage to secure payment of their inflated prices.

Best Offer gave consumers lowball estimates to move their household goods, and then illegally raised the amounts it charged consumers. Its estimates were given over the phone without anyone from the company viewing the goods to be moved or asking detailed questions about them. According to the findings, Best Offer never intended to honor the low estimates, and only used them to trick consumers into using its services. On the day of the move, the company required consumers to sign blank forms at the beginning of their move that Best Offer later filled in with hidden charges for un-

wanted packing materials and services, substantial additional hourly charges, fees for paying with a credit card, and fees for moving items Best Offer deemed "bulky." After loading consumers' goods onto its truck, Best Offer charged consumers significantly more than their estimates—sometimes several times more.

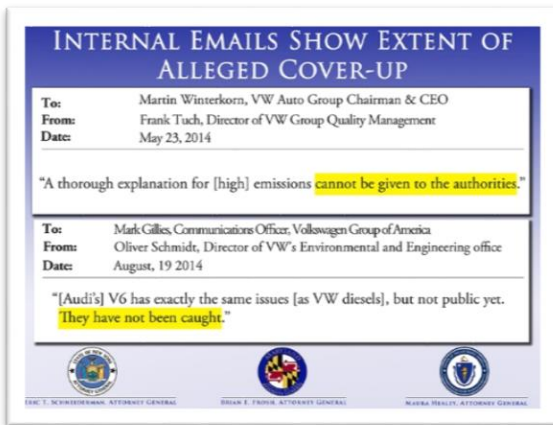


If consumers could not or would not pay, Best Offer refused to deliver their goods and demanded even more money for storage and redelivery. In one case, the company drove off with the prescription drugs and medical devices of a child with cerebral palsy, hearing loss, and other serious health conditions. The company then refused to return those goods until the Consumer Protection Division obtained a court order requiring them to do so.

Andrii Dziapka and Karina Sokol, of Germantown, have run the company together since May of 2014, and were each found personally liable for their roles in violating the Consumer Protection Act and the Maryland Household Goods Movers Act. The Final Order requires Best Offer, Mr. Dziapka, and Ms. Sokol to return all amounts they collected from consumers in excess of their written estimate or for storage fees at their unlicensed warehouse, which totals at least \$117,284.68. The Final Order also requires the respondents to pay a civil

penalty of \$391,000 for their violations of the law, \$39,468.58 in costs, and \$1,473.19 for additional economic damages suffered by consumers. In total, the Final Order requires Best Offer, Mr. Dziapka, and Ms. Sokol to pay at least \$549,226.45.

In order to protect consumers, the Final Order imposes significant restrictions on Best Offer and on any company over which Ms. Sokol or Mr. Dziapka has control or ownership. Prior to conducting any further business, they must post a \$75,000 bond for the benefit of consumers. They must conduct in-home surveys of consumers' household goods before providing estimates, and must base their estimates on those surveys. They are prohibited from charging a consumer any amount for services or fees that are not expressly listed in the written estimate. They are barred from asking a consumer to sign any document with a blank price term. To avoid last minute surprises, they may not change or amend their written estimates within seven days of a move. There are further significant restrictions in place to ensure that they offer accurate estimates, that they do not collect hefty upfront payments, that they follow through on providing the promised services, that they deliver all of a consumer's goods, and that they do not overcharge consumers.



## Environmental Enforcement

**Volkswagen Lawsuit** In July, the Office of Attorney General joined the Massachusetts and New York Attorneys General in lawsuits against Volkswagen AG and its affiliates Audi AG and Porsche AG, as well as their American subsidiaries, for the automakers' sale of diesel automobiles (including over 25,000 in New York, 15,000 in Massachusetts and 12,935 in Maryland) that were fitted with illegal "defeat devices" that concealed illegal amounts of harmful emissions these cars spewed – and then allegedly attempting to cover-up their behavior.

These lawsuits by the New York, Massachusetts and Maryland Attorneys General offices follow a nine-month long investigation by a multistate coalition of over 40 states and other jurisdictions, led by New York, Massachusetts, and four other states. New York State's Department of Environmental Conservation, Massachusetts's Department of Environmental Protection and Maryland's Department of the Environment provided important assistance with the investigation.

The complaints allege, in detail, a cover-up that Volkswagen and Audi allegedly managed for nearly a year-and-a-half after a study by researchers at West Virginia University alerted authorities in this country that these diesel cars emitted much more nitrogen oxides (NOx) when driven on the road than they did when undergoing emissions testing on test equipment used by the U.S. Environmental Protection Agency (EPA) and the California Air Resource Board (CARB) to test the amount of air pollutants emitted by automobiles.



These suits follow the car companies' partial settlements of claims for consumer relief and consumer deception penalties, as well as their agreement to establish a fund to mitigate the environmental damage caused by their admitted misconduct. Those earlier settlements did not resolve any of the claims for civil penalties that New York, Massachusetts, Maryland and other states, as well as the EPA, may bring for the companies' flagrant violations of state and federal environmental laws and regulations, nor did the settlements cover all of the vehicles equipped with emission control defeat devices.

The lawsuits allege that, after the EPA and CARB contacted Volkswagen and Audi about the discrepancies revealed by the West Virginia University study – which the companies fully knew were caused by their defeat devices – Audi and Volkswagen: tried to cover up the problem through sham recalls that they knew would not meet the required standards; repeatedly failed to disclose to regulators the true reason – the defeat devices – for the discrepancies; and only confessed to the defeat devices when they knew the regulators had them pinned to the facts.

The environmental lawsuit is ongoing.

## NRG GenOn Consent Decree

In August, Maryland entered into a Consent Decree on behalf of the Maryland Department of Environment with NRG Chalk Point LLC (“NRG”) and related entities for nitrogen exceedances at the Chalk Point and Dickerson electric generating stations.



As part of the federal consent decree, NRG will pay a \$1 million penalty and take steps to protect and restore the environment under the agreement filed in federal court. This consent decree will improve the health of the Chesapeake Bay and should serve as a reminder that we all play a role in protecting our environment, including our corporate citizens.

As part of the agreement, NRG Energy, which operates the Chalk Point and Dickerson power plants, will also perform \$1 million in environmental projects and upgrade wastewater treatment plant technologies at the coal-burning facilities. Maryland, NRG and other parties to the case filed a joint motion in federal court to enter a consent decree that contains the agreed settlement of alleged violations of the plants' water discharge permits.

On June 11, 2013, the Attorney General filed a complaint in the United States District Court for the District of Maryland on behalf of the State, seeking civil penalties and injunctive relief to bring the plants into compliance. The Consent Decree resolves the litigation.

As part of the settlement, both plants were required to install and operate state-of-the-art Membrane Ultra-filtration Technology at their wastewater treatment plants by October 1,

2016. In addition, the plants will pay the State a penalty of \$1 million, and will implement \$1 million dollars' worth of supplemental environmental projects designed to produce lasting nitrogen load reductions to the Patuxent and Potomac River sheds.

The Chalk Point Electric Generating Station, located on the shores of the Patuxent River in Prince George's County, and the Dickerson Electric Generating Station, located on the shores of the Potomac River in Montgomery County, are two of the state's largest coal-burning power plants. Following installation of new air pollution control technology at the plants, the State issued new discharge permits requiring each plant to limit their nitrogen and phosphorus discharges to certain annual maximum loads. The new wastewater treatment systems designed and installed at the plants were unable to achieve the level of nitrogen reductions required to meet their permit limits.

## Protecting Vulnerable Citizens

### Nursing Home Abuse



In December, the Office of Attorney General filed suit against Neiswanger Management Services, LLC ("NMS"), the operator of five Maryland nursing homes, for unsafely and unlawfully evicting frail and disabled people from its facilities, and for submitting false claims to the Maryland Medicaid program.

The complaint alleges that NMS, among other unlawful conduct, dumps evicted residents in homeless shelters and traffics others to unlicensed, sham assisted living facilities, which have no capacity to provide care to people with complex medical needs, and which sustain themselves by extracting social security payments and other public benefits from vulnerable people. The complaint further alleges that NMS often dumps its evicted residents far from their home communities, in places where they know no one. Evicted NMS residents frequently appear in hospital emergency rooms within days or weeks of their eviction.

NMS operates nursing facilities in Anne Arundel County, Montgomery County, Prince George's County and Washington County. The complaint alleges that, in violation of the Maryland Patient's Bill of Rights, NMS has unsafely evicted hundreds of frail, infirm, mentally ill, and physically and intellectually disabled people.

During a 17-month period, from January 1, 2015 to May 31, 2016, NMS issued at least 1,061 eviction notices to residents of its facilities. Maryland's 225 other licensed nursing facilities, all together, issued a combined total of less than half that number during the same period. The complaint further alleges that NMS identifies residents for eviction based on the status of their public health insurance benefits, in order to maximize reimbursement from Medicare and Medicaid. Because the

Medicare program typically reimburses nursing facilities at a higher rate than Medicaid, NMS often seeks to evict residents, according to the complaint, when its facilities are at full capacity and when Medicaid long term care recipients can be replaced with prospective residents whose care will be paid for by Medicare.

Maryland nursing facilities are required to provide social work and discharge planning services to residents whenever discharge is anticipated. When nursing facilities bill Medicaid, they are seeking reimbursement for providing social work and discharge planning services, and they are certifying that they comply with the basic protections afforded to residents under the Maryland Patient's Bill of Rights. The complaint alleges that, in violation of the Maryland False Health Claims Act, NMS often did not provide the social work and discharge planning services for which it billed Medicaid, and that, by submitting claims to Medicaid, NMS falsely certified its compliance with the Patient's Bill of Rights. In the complaint, the Attorney General requests that the court prohibit NMS from unsafely evicting residents and from engaging in other unlawful practices, and that the court impose civil penalties and award treble damages to the State.

## Fighting for Affordable Healthcare

### Suboxone Monopoly

In September, the Office of Attorney General and 35 other attorneys general filed an anti-trust lawsuit against the makers of Suboxone,

a prescription drug used to treat opioid addiction, alleging that the companies conspired to block generic competitors and cause purchasers to pay artificially high prices. Reckitt Benckiser Pharmaceuticals, now known as Indivior, is accused of illegally conspiring with MonoSol Rx to switch Suboxone from tablet form to a film version that dissolves in the mouth in order to prevent or delay competition from generic alternatives and maintain monopoly profits. The companies are accused of violating state and federal antitrust laws.

Suboxone is a brand-name prescription drug used to treat heroin addiction and other opioid addictions by easing addiction cravings. No generic alternative to the film version is currently available.

According to the lawsuit, when Reckitt introduced Suboxone tablets in 2002, it had patent exclusivity protection that lasted for seven years, meaning no generic version could enter the market during that time. Before that period ended, however, Reckitt worked with MonoSol to create a new version of Suboxone – a dissolvable film, similar in size to a breath strip. Over time, Reckitt allegedly converted the market away from the tablet to the film through marketing, price adjustments, and other methods. Ultimately, after the majority of Suboxone prescriptions were written for the film, Reckitt removed the tablet from the U.S. market. The attorneys general allege that this conduct was illegal “product hopping,” by which a company makes modest changes to its product to extend patent protections; other companies cannot then enter the market and offer cheaper generic alternatives.

Reckitt also allegedly expressed unfounded safety concerns about the tablet version and intentionally delayed FDA approval of generic

versions of Suboxone. In fact, according to the suit, the Suboxone film provided no real benefit over the tablet and Reckitt continued to sell the tablets in other countries even after removing them from the U.S. market. As a result, the attorneys general allege, consumers and purchasers have paid artificially high monopoly prices since late 2009, when generic alternatives of Suboxone might otherwise have become available. During that time, annual sales of Suboxone topped \$1 billion.

The lawsuit accuses the companies of violating the federal Sherman Act and state laws including the Maryland Antitrust Act. Counts include conspiracy to monopolize and illegal restraint of trade.

In the suit, the attorneys general ask the court to stop the companies from engaging in anti-competitive conduct, to restore competition, and to order appropriate relief for consumers and the states, plus costs and fees.



## Generic Drugs

The Office of Attorney General joined 19 other state attorneys general, in December, in filing a federal lawsuit against generic drug-maker Heritage Pharmaceuticals, Inc., Auri-bindo Pharma USA, Inc., Citron Pharma,

LLC, Mayne Pharma (USA), Inc., Mylan Pharmaceuticals, Inc. and Teva Pharmaceuticals USA, Inc. alleging that they entered into numerous illegal conspiracies in order to unreasonably restrain trade, artificially inflate and manipulate prices and reduce competition in the United States for two drugs: doxycycline hyclate delayed release, an antibiotic, and glyburide, an oral diabetes medication.

In 2015, generic drug sales in the United States were estimated at \$74.5 billion; currently, the generic pharmaceutical industry accounts for approximately 88 percent of all prescriptions written in the United States. In July 2014, the state of Connecticut initiated an investigation into suspicious price increases of certain generic pharmaceuticals, and Maryland later joined.

The investigation uncovered evidence of a broad, well-coordinated and long running series of conspiracies to fix prices and allocate markets for a number of generic pharmaceuticals in the United States.

In the lawsuit, the states allege that the misconduct was conceived and carried out by senior drug company executives and their subordinate marketing and sales executives.

The Complaint further alleges that the defendants routinely coordinated their schemes through direct interaction with their competitors at industry trade shows, customer conferences and other events, as well as through direct email, phone and text message communications.

The anticompetitive conduct – including efforts to fix and maintain prices, allocate markets and otherwise thwart competition –

caused significant, harmful and continuing effects in the country's healthcare system, the states allege.

The states further allege that the drug companies knew that their conduct was illegal and made efforts to avoid communicating with each other in writing or, in some instances, to delete written communications after becoming aware of the investigation.

The states allege that the companies' conduct violated federal antitrust laws and are asking the court to enjoin the companies from engaging in illegal, anticompetitive behavior and for substantial financial relief.

The investigation is still ongoing.

## Cyber First Responders



The Maryland Cybersecurity Council, of which Attorney General Frosh is Chair, released its interim report in July, outlining the Council's activities and preliminary recommendations based on its findings this year. Among those, the Council recommended that the State create a cyber first responders reserve, where an appropriate state agency would coordinate with

top cyber expert reservists in the event of a cyber emergency.

The United States government created a digital service corps to facilitate the hiring of digital expertise. In addition, the federal government and individual states have a national reserve that can be called upon in the event of a natural or other kind of disaster. The Council recommends Maryland have access to a reserve of digital expertise, due to the growing threat cyber-attacks pose to the welfare of the state. The Council envisions the Maryland Emergency Management Agency leading and coordinating the efforts to build a cyber first responder reserve.

Additional recommendations from the Council included:

- Developing legislation to expand the applicability of the Maryland Personal Information Protection Act (MPIPA) by redefining "personal information" to include more types of data that can be used to identify a person.
- Creating a civil cause of action for remote intrusions, providing a private party the ability to pursue a claim against a person or entity that access the private party's personal information without authority.
- Examining a coordinated approach with other states and government cybersecurity efforts across the Mid-Atlantic region.
- Working with the National Institutes of Standards and Technology (NIST), the U.S. Department of Homeland Security and other government agencies to identify critical infrastructure sectors that are at risk of cyberattacks and are

in need of enhanced cybersecurity measures.

- Creating an online repository of cybersecurity outreach, awareness and training information available to individuals, and private and public sectors.

In 2015, the Maryland General Assembly created, through Senate Bill 542, the Maryland Cybersecurity Council to develop comprehensive strategies and recommendations to protect the State's critical infrastructure. The Council was also tasked with developing strategies to move Maryland forward as a national hub in cybersecurity innovation and jobs.

To achieve its mission and purpose, the Council established six subcommittees, including law, policy and legislation; cyber operations and incident response; critical infrastructure and cybersecurity framework, education and workforce development; economic development; and public awareness and community outreach. The Council has held three full Council meetings and numerous subcommittee meetings throughout the year. The Council's next report is due to the Maryland General Assembly on July 1, 2017.

## Commitment to Our Community

### Pro Bono

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 solu-

tions 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, and many others in need. We are committed to making sure we give back to the community both through our public service mission, and in other ways.



There are a variety of ways in which the Office's attorneys may perform pro bono services. The cases in which attorneys have volunteered include drafting simple wills, simple deeds, powers of attorney, advanced medical directives, and corporate charters and by-laws; staffing expungement, powers of attorney and bankruptcy bypass clinics; and representing individuals with filing Chapter 7 bankruptcies, name changes, gender marker changes, adult guardianships, divorces not involving custody, asylum and other cases. Our attorneys have also written or edited numerous articles for the People's Law Library.

The Pro Bono Committee is actively seeking out new pro bono opportunities in which our attorneys may volunteer. Our attorneys will soon begin volunteering to assist children in obtaining special immigrant juvenile status.

## Community Service Initiative

The Baltimore Community Service Initiative was established in the aftermath of the Freddie Gray unrest with the focus of providing community support and assistance on behalf of the Office of the Attorney General to the greater Baltimore community. Since its inception, the initiative has partnered with key community organizations to provide notable contributions on behalf of the Office of the Attorney General.

This collective of outstanding volunteers who tirelessly donate their time and resources include attorneys and support staff in the Attorney General's office statewide. The OAG's partnership with Promise Heights – a collaborative effort with the University of Maryland School of Social Work in Baltimore – provided an opportunity to rebuild the playground at Gilmor Elementary School. The initiative also assisted in setting up the school's library and media center. The initiative decided to adopt Gilmor Elementary School to provide ongoing support throughout the year. Since the adoption, OAG volunteers have participated in the school's holiday event and provided chaperones for Gilmor Elementary Annual Fun Day.

The initiative also volunteered with Movable Feast, an organization that provides medically tailored meals free of charge to people with serious life threatening illnesses, and with Meals on Wheels and the Maryland Food Bank, nonprofits dedicated to ending hunger

throughout Maryland. Our volunteers provided assistance by packaging food for distribution. The initiative also partnered with The Parks & People Foundation to plant a rain garden at the old Trolley Turnaround, and Habitat of Humanity of the Chesapeake Restore Call Center.

The initiative also spearheaded two very successful community service donation drives. The first School Supplies Drive was held for schools located in the Department of Juvenile Services facilities. Statewide, the Office very generously donated school supplies, gently used books and hand sanitizer that was delivered to the Department of Juvenile Services personnel.

The second community service donation event was a coat drive in partnership with Stand Up Baltimore Coalition. A total of 57 coats, one dozen hats, scarves and gloves were generously donated by volunteers of the Office of the Attorney General to the children and families living in the Douglass Memorial and Poe Homes' public housing communities on Christmas Eve.

## Corporate Mentoring Program

The Office of the Attorney General has partnered with the Community Law in Action (CLIA) Corporate Mentoring Program to give local high school students worksite experiences in law and public policy as well as the opportunity to mentor with positive adult role models who have a passion for working with young people. The overall mission of the OAG/CLIA Mentoring Program is to inspire youth from diverse backgrounds who are underrepresented in the legal profession and

youth from low-to-moderate incomes communities to strive for higher education and careers in the legal field.

Students receive real-life work experience in the fields of law and public policy and exposure to professional problem-solvers who work to serve their communities. Activities of the program include visits to the Maryland General Assembly, college and university tours, museum and historical sites outings, courts and judges' chamber visits and tours of law enforcement facilities.

Several members of the Office are serving as mentors to students participating in the program for the 2016-2017 school year.

## Establishing the OAG Diversity Committee

In furtherance of the Office's commitment to workplace diversity and inclusion, the Office of Attorney General has established a Diversity Committee. Comprised of 38 OAG staff (which includes an 11-member Executive Committee and 4 subcommittees of 8 to 10 OAG staff each), the OAG Diversity Committee is focused on four key areas: developing strategies to promote diversity in the workplace through recruitment, hiring, development, promotion and retention; organizing and promoting events and programs for OAG staff that support a diverse workforce; developing training programs and initiatives to educate staff on issues that foster a diverse and inclusive workplace; and evaluating how OAG's legal advice and support could be improved to lessen the impact of racial, gender and other biases on the diverse communities we serve.





Maryland Attorney

BRIAN E. FROSH

General