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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Government Operations and
Spending Limitations...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly

Record of Committee Proceedings

Committee on Government Operations and Spending Limitations

Senate Bill 17

Relating to: creating a Joint Committee on Court Judgments and Settlements made on behalf of the state.

By Senators Kanavas, Welch, Roessler, Lazich, Kedzie, S. Fitzgerald, Darling, Cowles and Panzer; cosponsored by Representatives McCormick, Jeskewitz, Hahn, Seratti and Ott.

June 05, 2003 Referred to Committee on Government Operations and Spending
Limitations.

October 8, 2003 **PUBLIC HEARING HELD**

Present: (6) Representatives F. Lasee, Loeffelholz, Musser,
Weber, Zepnick and Wasserman.

Absent: (0) None.

Appearances For

- Mike Richards, Senator Ted Kanavas, 33rd Senate District

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Sen. Bob Welch, 14th Senate District

Registrations Against

- None.

November 19, 2003 **EXECUTIVE SESSION HELD**

Present: (6) Representatives F. Lasee, Loeffelholz, Musser,
Weber, Zepnick and Wasserman.

Absent: (0) None.

Moved by Representative Musser, seconded by Representative Weber that **Senate Bill 17** be recommended for concurrence.

Ayes: (6) Representatives F. Lasee, Loeffelholz,
Musser, Weber, Zepnick and Wasserman.

Noes: (0) None.

CONCURRENCE RECOMMENDED, Ayes 6, Noes 0

Lance Burri
Committee Clerk

Vote Record

Committee on Government Operations and Spending
Limitations

Date: 11 19 03

Moved by: Musser

Seconded by: Web

AB _____

SB 17

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

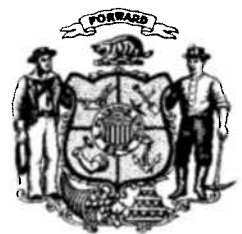
Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Frank Lasee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gabe Loeffelholz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Terry Musser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Becky Weber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Josh Zepnick	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sheldon Wasserman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 6 0 _____



WISCONSIN STATE LEGISLATURE





STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

JAMES E. DOYLE
ATTORNEY GENERAL
Burneatta L. Bridge
Deputy Attorney General

114 East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857
608/266-1221
TTY 1-800-947-3529

June 27, 2002

To: Secretary George Lightbourn, Department of Administration
Members, Joint Committee on Finance, Wisconsin Legislature

From: Burneatta L. Bridge, Deputy Attorney General

Re: Semi-Annual Report Pursuant to Wis. Stat. §165.25 (10)

Pursuant to Wis. Stat. §165.25 (10), the Department of Justice is to report semiannually to the Department of Administration and the Legislature about the "money received by the department of justice under a court order or a settlement agreement for providing restitution to victims". This is the first report prepared by the Department since this section was enacted. It covers the time period of July 1, 2001 through December 31, 2001. It is the Department's intention that the next report will cover the time period of January 1 through June 30, 2002.

To assist the reader, this report is organized according to the following format. First, a brief narrative description of how the Department of Justice obtains settlements and judgments in consumer protection and anti-trust cases is provided. Second, a financial summary of the transactions (receipts and payments) in the restitution account during the time period covered by the report is provided. Third, a short narrative about each case which resulted in a receipt or payment through the restitution account is provided so that the reader can understand the underlying legal basis for the settlement or judgment and the purpose of the litigation award.

Section 1: Narrative Description of Settlement Funds Process

The litigation of cases on behalf of the people of Wisconsin is a core function of the duties of Wisconsin's Attorney General. As a constitutional officer elected by the people, the Attorney General exercises broad discretion in the conduct, including the resolution, of litigation. The Attorney General's authority to do so is embodied in the State Constitution, Chapter 165, Wisconsin Statutes, and the inherent powers granted the Office of Attorney General by the state and federal court system.

The Department of Justice, through the authority granted to the Attorney General, obtains judgments and settlements on behalf of the State of Wisconsin through litigation. Cases arising from consumer protection or anti-trust violations result in the return of money to consumers, or to various entities through a number of different ways. In most cases, it is possible to identify specific persons to whom refunds or restitution can be made. In such cases, the money collected via the litigation is returned whenever possible to those directly injured. The funds are collected

and returned either through the Department of Justice, directly by the defendant company, or through a third party administrator. Often there is either a court order or a settlement document that outlines the specific method through which such restitution is made.

In other cases, the victims are not as easily identified, or the magnitude of the dollar amount or the type of violations involved make it impractical to attempt to identify and return a specific dollar amount to individual consumers. In such cases, the court provides a mechanism that authorizes the Attorney General to distribute the funds at his or her discretion for designated purposes consistent with the underlying nature of the violation. For example, a settlement against a drug manufacturer might indicate that the proceeds are to be used "for public health" purposes. It should be noted that these cases are the distinct minority---over the years the majority of the victories won for Wisconsin consumers have resulted in some restitution to individuals directly affected by the consumer violations. Finally, the terms of some litigation awards allow the Attorney General to apply settlement proceeds to costs, fees, consumer protection and education efforts, or other lawful purposes in his or her discretion. In all of these cases, the Attorney General exercises his or her discretion under the supervision of the court that retains the authority to approve or reject a proposed settlement.

Over the last several years, the Attorneys General throughout the country have increasingly banded together to bring multi-state litigation on behalf of their constituents. When this occurs, there is usually a lead "team" of Attorneys General and their staffs who manage each large multi-state case. When these cases are concluded, the court in which the case has been pending usually enters an order that governs the distribution of the proceeds of the settlement or litigation award. Because of the nature of the violations and/or the magnitude of the award, it is often more difficult to identify specific individuals to whom restitution can be made. Thus, the courts occasionally use the second method described above (the method by which the Attorneys General exercise more discretion) to distribute the proceeds. In each case, the distribution of the funds is subject to the terms of the settlement itself, and usually also to the direct supervision of the court or a third party the court appoints to oversee such distribution.

In summary, how and where settlement money flows into and out of the Department of Justice depends on the particular type of litigation and the terms of each separate settlement or court order. If the settlement funds come to the Department of Justice, the funds destined for restitution are put into designated sub-accounts in the Restitution Account. The funds remain in the Restitution Account until they are disbursed to the recipients. If funds remain after all reasonable attempts to identify recipients have been exhausted, the funds are used for any of the other designated purposes provided by the terms of the settlement or court order.

Over time, the Department of Justice has worked with both the Department of Administration and the Legislative Audit Bureau to refine the process for such transactions. The current process involves the Department of Justice notifying the Department of Administration of the receipt of such restitution funds, along with a request for the spending authority necessary to implement the settlement or court order. For example, recently the Department of Justice and Department of Administration worked together to disburse approximately \$1.3 million in funds to victims of the Publishers' Clearing House promotions in a record four days.¹

¹ Please note that the receipt of the first portion of funds from the Publishers' Clearing House settlement is itemized in this report. Detail about the first distribution of funds, including an itemization of persons who received the funds, will be covered in the next report, since that occurred after December 31, 2001.

A somewhat different procedure is utilized for the second type of case: those where the funds are not able to be returned to specific individual consumers as restitution for damages they sustained. In such cases, the court vests in the Attorneys General the discretion to propose an appropriate distribution method consistent with the terms of the settlement. If a third party administrator is used to distribute the funds, each Attorney General's office is then responsible for notifying the administrator of the names of recipients of the funds and the administrator is responsible for disbursing the funds and reporting to the court and the parties on that process. In such cases, the Department of Justice's restitution account process is not utilized because the funds do not come to the Department for distribution. The disbursement of settlement proceeds from the multi-state action against the Vitamins manufacturers is being handled in this manner.

Section 2: Financial Summary of Transactions in the Restitution Account between July 1, 2001 through December 31, 2001.

WI DEPARTMENT OF JUSTICE

**Restitution
Receipts
07/01/01 - 12/31/01**

Case Name	Document Number	Document Date	Amount
Sears	JR45502JR0000269	05/17/2002	(60,000.00)
Pepper Tree	CR455CK020000072	12/06/2001	322,272.75
Consumer Education	JR45502JR0000269	05/17/2002	60,000.00
Colorado Prime	CR455CK020000034	09/13/2001	14,174.63
Publishers Clearing House	CR455WR020000082	12/28/2001	750,000.00
		Total Receipts	<u>1,086,447.38</u>

WI DEPARTMENT OF JUSTICE

Restitution

Payments

07/01/01 - 12/31/01

<u>Case Name</u>	<u>Document Number</u>	<u>Document Date</u>	<u>Amount</u>	<u>Payee</u>
MCI World Communications	CR455CK010000187	07/18/2001	(134.50)	Refund
			<u>(134.50)</u>	
Consumer Education	P145502000001223	09/26/2001	2,334.00	Learfield Communications
	P145502000001226	09/26/2001	230.00	Milwaukee Times
	P145502000001227	09/26/2001	565.74	Milwaukee Community Journal
	P145502000001228	09/26/2001	565.74	Milwaukee Courier
			<u>3,695.48</u>	
Evergreen Cemetery	CR455CK020000049	10/12/2001	(1,595.74)	Redeposit
	P145502000000205	07/30/2001	1,450.00	AJR Industrial Lawn & Snow Maintenance
	P145502000000369	08/09/2001	3,700.00	AJR Industrial Lawn & Snow Maintenance
	P145502000000436	08/14/2001	1,360.00	Rodney Cubbie SC
	P145502000000703	08/28/2001	2,150.00	AJR Industrial Lawn & Snow Maintenance
	P145502000000788	09/04/2001	2,150.00	AJR Industrial Lawn & Snow Maintenance
	P145502000001057	09/17/2001	2,460.00	Rodney Cubbie SC
	P145502000001120	09/19/2001	3,000.00	AJR Industrial Lawn & Snow Maintenance
	P145502000001307	10/01/2001	1,595.74	Redeposit
	P145502000001435	10/05/2001	1,145.74	Lawrence Farrell
	P145502000001436	10/05/2001	450.00	Robert Frank
	P145502000001656	10/17/2001	8,700.00	Heiden Plumbing Co Inc
	P145502000001657	10/17/2001	240.00	Rodney Cubbie SC
	P145502000001817	10/25/2001	2,000.00	Roland Hoppe
	P145502000002286	11/27/2001	484.32	Lawrence Farrell
			<u>29,290.06</u>	
NAAG - DATCP	P145502000001918	10/30/2001	<u>12,521.57</u>	NAAG
			<u>12,521.57</u>	
American Cyanamid	P145502000002407	12/13/2001	<u>51,147.34</u>	Board of Regents UW Systems
			<u>51,147.34</u>	

Total Payments 96,519.95

Section 3: Narrative Summary of Receipts and Payments Between July 1, 2001 and December 31, 2001.

These descriptions correspond to the transactions reflected in the spreadsheets in Section 2.

Sears/Consumer Education (Receipts) and Consumer Education (Payment)

The Iowa County Circuit Court approved a consent judgment reached between the state and Sears as the result of a multistate action regarding Sears' alleged practice of attempting to induce Sears debtors involved in bankruptcy proceedings to reaffirm their Sears debt rather than having it discharged in bankruptcy. Sears paid direct restitution to consumers and also paid funds to the offices of the attorneys general of the states involved in the litigation to be used for consumer protection and education purposes. A portion of these funds was used to fund consumer protection public service announcements during this reporting period.

State of Wisconsin v. Peppertree Resort Villas, Inc. and Peppertree Resorts, Ltd. (Receipt)

Peppertree entered into a consent order as a result of allegedly improper offer and sale of timeshares contrary to Wis. Stat. ch. 707, and fraudulent marketing practices under Wis. Stat. §§ 100.171 and 100.18. Peppertree agreed to make restitution to consumers affected by its practices. The funds deposited in FY02 reflect restitution to be paid to consumers based on complaints filed with the Department of Agriculture, Trade and Consumer Protection (DATCP). A partial disbursement has been made and will be reported in the next reporting period. Disbursement of the remaining funds is stayed pending Peppertree's appeal of the circuit court's order enforcing the consent judgment.

State of Wisconsin v. Colorado Prime Corporation (Receipt)

The state reached a consent judgment with Colorado Prime as a result of Colorado Prime's allegedly fraudulent telemarketing and door to door sales practices. The funds received during this reporting period have been paid as restitution to individuals who filed complaints with DATCP and who signed releases and agreed to accept the restitution. These disbursements occurred after this reporting period and will be detailed in the next report.

State of Wisconsin v. Publishers Clearing House ("PCH") (Receipt)

The state reached a settlement with PCH following a trial on PCH's allegedly fraudulent activities regarding its sweepstakes. The state also joined a multistate settlement with PCH. Under the terms of these settlements, PCH will pay funds to Wisconsin for purposes of restitution to consumers who purchased subscriptions and merchandise from PCH. Restitution is being distributed in two phases, based on whether consumers filed complaints before the settlement was announced, or after. Detail on the first distribution will be provided in the next report.

MCI World Communications, Inc. (Payment)

MCI entered into a consent judgment with Wisconsin and twenty-three states as a result of MCI's allegedly illegal and misleading billing practices. Under the terms of the judgment, MCI made payments to the states to be used for various purposes at the discretion of the Attorney General, including consumer education. A portion of Wisconsin's share of this settlement was used to underwrite a conference sponsored by the Wisconsin Department of Justice. The transaction during this reporting period was a refund from a conference vendor based upon an erroneous bill.

State of Wisconsin v. Cemeteries, Inc., d/b/a/ Evergreen Cemetery, et al. (Payment)

The state brought an action against Evergreen Cemetery and its owners alleging that the cemetery was selling lots and arranging for burials contrary to Wis. Stat. §§ 157.07 and 157.08. In addition, the cemetery was not being maintained and had fallen into disrepair. Under the terms of the settlement, filed with the court in March, 2000, the defendants agreed to pay \$600,000 to restore the required care fund and to cover nuisance abatement costs. During this reporting period, a total of \$51,147.34 was paid to various vendors for necessary maintenance of the cemetery. The expenditures reflected were made pursuant to court order and were approved by the court.

NAAG-DATCP (Payment)

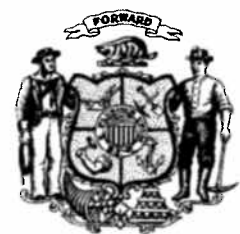
The Department of Justice received funds from the National Association of Attorneys General ("NAAG") to support certain investigative activities. Due to changes in investigative priorities, the specific project was discontinued and the funds were returned to NAAG for use in another initiative.

State of Missouri, et al., v. American Cyanamid Company (Payment)

This was an action brought by the Attorneys General of 28 states alleging that American Cyanamid had unlawfully conditioned payment of rebates and incentives on a fixed resale price of various crop protection chemicals. Under the terms of the consent decree and final judgment, American Cyanamid agreed to make payments to the states' Attorneys General to be used to benefit the agricultural community in the individual states, at the sole discretion of the Attorney General. Wisconsin received \$343,940.13 for this purpose through this litigation, and also received \$153,704.21 for the same purpose through *Texas, et al. v. Zeneca*. The Attorney General designated the Pesticide Use and Risk Reduction project of the University of Wisconsin Department of Agriculture to receive these funds to further its research into alternatives to chemical pesticides. The funds disbursed in FY02 represent the last payment to this project.



WISCONSIN STATE LEGISLATURE





Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

November 15, 2002

TO: Senator Ted Kanavas
Room 22 South, State Capitol

FROM: Paul Onsager, Fiscal Analyst

SUBJECT: Discretionary Settlement/Judgment Payment Distributions by the Department of Justice

At your request, this memorandum summarizes for the period April 1, through October 31, 2002, the payment distribution activity of the Department of Justice (DOJ) for those settlements or court judgments where the agency had discretion either to select the recipient or to determine how much a given recipient would receive.

DOJ has identified the following cases in which discretionary payments have been made during this April through October, 2002, time period: (a) Publishers Clearing House; (b) Sears, Roebuck & Co.; (c) Winstar Gateway Network, Inc.; (d) Equalnet Corporation; and (e) MCI Worldcom Communications, Inc. The payment distribution activity under each of these cases (or grouping of cases) is described in the remainder of this memorandum.

Publishers Clearing House

On January 28, 1999, DOJ filed suit in Columbia County circuit court against Publishers Clearing House (PCH) for allegedly making fraudulent representations to consumers. On November 1, 2000, the case went to trial for three weeks until November 22, 2000. The last briefs in the case were filed on February 15, 2001, and on June 26, 2001, Wisconsin and 25 other states reached a settlement agreement with PCH requiring it to pay \$34 million in consumer refunds, legal expenses and the administrative cost of returning settlement dollars to consumers.

In addition, Wisconsin and PCH agreed to a supplemental restitution order requiring PCH to pay an additional \$750,000 to those Wisconsin consumers who had not yet come forward as of the June 26, 2001, settlement date. This class of consumers was entitled to file a claim with DOJ during a 90-day period that began on June 26, 2001.

The Department has indicated that approximately 6,000 consumers will ultimately receive restitution under the PCH settlement. Through October 31, 2002, the state has received PCH settlement payments and accrued interest totaling \$2,232,600. Currently, DOJ anticipates a final PCH settlement payment in July, 2003, of approximately \$578,500 for distribution to additional affected consumers.

Sears, Roebuck & Co.

Sears, Roebuck & Co. was the subject of multi-state litigation alleging a corporate practice of attempting to induce Sears debtors involved in bankruptcy proceedings to reaffirm their Sears debt rather than discharging that debt in bankruptcy. As a result of a consent judgment reached in this case, Sears paid funds directly to consumers and to the state attorneys general involved in the litigation. The payments to state attorneys general were to be used for consumer protection and education purposes.

Since April, these funds have been used to fund consumer protection public service announcements and to support the costs of LTE staffing in DOJ to respond to inquiries that the agency expected to receive in response to these public service announcements. A total of \$22,713 has been distributed to the following media outlets: WNOV Radio, WMCS-AM and Learfield Communications (three checks totaling \$5,597 in April, 2002; two checks totaling \$13,226 in July, 2002; one check for \$3,112 in August, 2002; and one check for \$778 in September, 2002). The LTE staffing in DOJ was supported by one payment of \$14,225.52 in June, 2002.

Winstar Gateway Network, Inc., Equalnet Corporation and MCI Worldcom Communications, Inc.

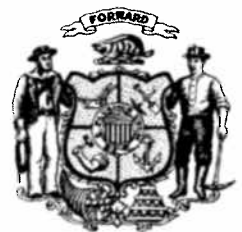
In August, 2002, one check totaling \$60,000 was released from the Winstar, Equalnet and MCI residual settlement funds to enable the state Educational Communication Board to upgrade its emergency alert system in order to accept and broadcast Amber Alerts. An Amber Alert is a system that interrupts radio and television broadcasts with immediate news of child kidnappings in order to alert law enforcement and the public. These three settlements all authorized the use of settlement proceeds broadly for consumer education or other lawful purposes.

I hope this information is of assistance.

PO/bh



WISCONSIN STATE LEGISLATURE





STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

PEGGY A. LAUTENSCHLAGER
ATTORNEY GENERAL

Daniel P. Bach
Deputy Attorney General

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March 26, 2003

Secretary Marc Marotta, Department of Administration
Members, Joint Committee on Finance


Dear Secretary Marotta and Members, Joint Committee on Finance:

This report is submitted as required by Wis. Stat. s. 165.25(10). Under this section the Department of Justice is to report semiannually to the Department of Administration and the Joint Committee on Finance about the *money received by the department of justice under a court order or a settlement agreement for providing restitution to victims*. This report covers the period of January 1 through June 30, 2002.

On June 27, 2002, the Department submitted its first report under this statutory requirement. That report contained an extensive narrative describing the settlement funds process, which is not repeated here. A financial summary of the transactions in the restitution account that occurred between January 1 and June 30, 2002, is shown in the following two tables. The first shows amounts *received* and the second shows *payments*. The cases involved in these transactions are described in the narrative that follows the tables. Descriptions were included in the previous report for many of these cases, and are not repeated here. In two instances, the previous report indicated that additional detail would be provided. Regarding *Colorado Prime Corporation*, \$75,274.63 was paid to customers as restitution in January 2002, of which \$400 was returned as unclaimed restitution. The State distributed a total of \$1,280,589.44 to *Publisher's Clearing House* customers who filed complaints with the Department about PCH's misleading sweepstakes practices. Each customer received a portion of the dollars spent with the company from 1997 to 2000, based on PCH and customer records.

Litigating cases on behalf of the people of Wisconsin is a key responsibility of the Attorney General. I will see to it that the Department of Justice continues to give this responsibility the highest possible priority.

Very truly yours,


Peggy A. Lautenschlager
Attorney General

WI DEPARTMENT OF JUSTICE
Settlement / Restitution
01/01/02 - 06/30/02
Receipts

<u>Case Name</u>	<u>Amount</u>
Colorado Prime	61,100.00
Pepper Tree	156,700.09
Firestone	1,205,000.00
Contact Lens	97,717.88
Smart Internet	63,777.78
Level Propane	32,142.85
Sprint	11,666.67
MCI	11,666.67
AT&T	11,666.67
USPE	1,106.78
Evergreen Cemetery	1,181.66
Publishers Clearing House	1,169,573.79
Total Receipts	<u>\$ 2,823,300.84</u>

WI DEPARTMENT OF JUSTICE
Settlement / Restitution
01/01/02 - 06/30/02
Payments

<u>Case Name</u>	<u>Amount</u>
Consumer Education	\$ 52,414.52
Evergreen Cemetery	244,470.11
E-TIME / WEB Portal	3,150.00
Colorado Prime	75,274.63
Pepper Tree	88,118.43
Publishers Clearing House	<u>1,280,589.44</u>
Total Payments	<u>\$ 1,744,017.13</u>

Multistate Settlement with AT&T, MCI Worldcom and Sprint (Receipt)

Wisconsin, along with Attorneys General from 23 other states, reached a settlement with long distance carriers AT&T, MCI Worldcom and Sprint, over the carriers' advertising of their discount long distance plans. Under the terms of the settlement, the carriers have agreed to disclose the extra costs and fees that go along with their discount long distance plans. The three companies also agreed to pay a total of \$1.5 million to the states to cover investigative costs, for consumer education or for consumer protection purposes at the discretion of the Attorneys General. Wisconsin's share of the total is \$35,000.

State of Wisconsin v. Level Propane Gases, Inc. (Receipt)

The state obtained a consent judgement against Level Propane Gases, Inc., for violations of state weights and measures requirements in the sales and distribution of liquid propane gas to Wisconsin consumers. Level Propane Gases, Inc., was required to pay \$9,355 in forfeitures and assessments. Under the judgement, Level Propane is required to comply with Wisconsin's weights and measures laws, including obtaining the necessary registration and licensing and paying the required fees in connection with its operations in its distribution facility and its area delivery trucks.

Multistate Settlement with Bridgestone/Firestone (Receipt)

Wisconsin, along with 52 other jurisdictions, reached a settlement with Bridgestone/Firestone, Inc., resolving allegations that the company sold defective tires and made misrepresentations during a tire replacement program and in the promotion of the allegedly defective tires. Under the settlement agreement, Bridgestone/Firestone was required to pay \$41.5 million to all 50 states, the District of Columbia and the Virgin Islands. As one of seven lead negotiating states in the multistate investigation, Wisconsin received \$1,205,000 in the settlement.

Multistate Settlement with United States Purchasing Exchange (Receipt)

Wisconsin, along with Attorneys General of 47 other states and the District of Columbia reached an agreement with the United States Sales Corporation, which does business as the United States Purchasing Exchange and USPE. The agreement required USPE to provide clear and conspicuous "Sweepstakes Facts" for consumers on the sweepstakes entry form itself, including a statement that the consumer has not yet won, the odds of winning a prize and that a product purchase is not required to win. The assurance of voluntary compliance signed by USPE and the Attorneys General establishes a fund of \$30.4 million for restitution to consumers nationwide who spent at least \$1,870 with USPE in any one of the calendar years 1997, 1998, or 1999. Wisconsin received \$1,106.78 in the multistate settlement.

Antitrust Lawsuit Settlement with Johnson & Johnson Vision Care, Inc. (Receipt)

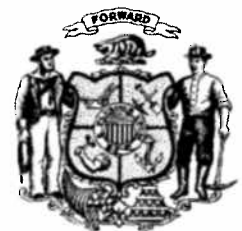
Wisconsin, along with 31 other states and a private consumer class reached an agreement with Johnson & Johnson Vision Care, Inc. The settlement resolved allegations that the retail prices of disposable contact lenses were too high because Johnson & Johnson and the other manufacturers agreed with the AOA, in violation of the antitrust laws, that their lenses would be available only from eye care professionals, retail optical stores or mass merchandisers. Under the terms of the settlement, Johnson & Johnson guaranteed to distribute at least \$30 million of rebates to consumers nationwide. Wisconsin received \$97,717.18 in the settlement to be used to provide rebates to Wisconsin consumers.

State of Wisconsin v. Smart Internet Services Ltd. (Receipt)

The state obtained a judgement against Smart Internet Services Ltd., for illegal practices involving billing small businesses for web pages without any prior contact or authorization from those businesses. The judgement required Smart Internet Services to cease their illegal business practices in Wisconsin and pay restitution to Wisconsin consumers who were charged for internet services that they did not order. Wisconsin received \$63,777.78 from the judgement.



WISCONSIN STATE LEGISLATURE





STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

PEGGY A. LAUTENSCHLAGER
ATTORNEY GENERAL

Daniel P. Bach
Deputy Attorney General

114 East, State Capitol
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608/266-1221
TTY 1-800-947-3529

April 8, 2003

The Honorable Ron Brown, Chairperson
Senate Committee on Homeland Security, Veterans &
Military Affairs and Government Reform
State Capitol Building, Room No. 104 South
HAND DELIVERED

Re: 2003 Senate Bill 17

Dear Chairman Brown:

Thank you for this opportunity to share with you some insights from the Department of Justice (DOJ) on Senate Bill 17, legislation related to court judgments and settlements. I appreciate your consideration of this matter and generally support the goal of SB17 to provide legislative involvement in the disbursement process used to allocate discretionary court settlement funds. I also cannot overstate the importance of restoring the Department's cost recovery authority as part of this legislation to DOJ's law enforcement mission and to the future settlements envisioned by this bill.

Over the years, the Department has been very successful in its efforts to enforce Wisconsin laws. These successes have resulted in millions of dollars of restitution for Wisconsin victims, enhanced the public safety of our families and improved the environmental well being of our communities. In some circumstances, courts have also directed that funds resulting from actions brought on behalf of the state be administered by the DOJ to serve a broader underlying purpose of the litigation (i.e., consumer protection).

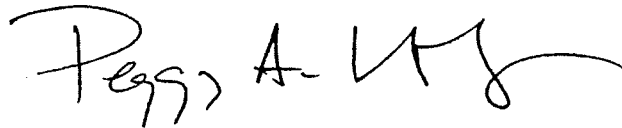
As a separate, co-equal branch of government with constitutionally inherent powers, the judiciary should be encouraged to fashion a wide range of remedies in cases brought on behalf of the state, including use of the funds addressed by this legislation. I am hopeful that the legislature will continue to respect this authority of courts. I am in general agreement that a formal process, including the involvement of legislators, is appropriate in some circumstances where truly discretionary funds are directed by the court to be administered by DOJ. I look forward to reviewing the proposed substitute amendment to SB17 to ensure the necessary separation of powers between the branches of government is preserved.

The Honorable Ron Brown, Chairperson
April 8, 2003

Finally, the continued ability of the Department to proceed with the cases that have resulted in the settlements addressed by this bill is inextricably tied to the restoration of the cost recovery authority that existed until last budget cycle. Costs incurred in prosecuting and defending actions where the state has an interest include: experts, court reporters, transcripts, copying, court costs, witness fees, and attorney travel. Until 1982, these expenses were allocated under a sum-sufficient appropriation, in recognition of the fact that case-related costs are essentially uncontrollable and unpredictable, and yet unavoidable in meeting the legal interests of the state and residents. Chronic under-funding of these expenses in recent years has seriously jeopardized the mission of DOJ. In fact, only last week, a motion was filed with the JFC to offset a projected \$350,000 shortfall in the account used for the litigation costs described above.

I am encouraged by the willingness of the author of this legislation to address the gross inadequacy of current law in restoring DOJ's cost recovery authority for the litigation it pursues on behalf of the state. I respectfully request that the committee consider these issues as it reviews SB17. If I can provide the committee with any additional information about this or any other justice-related matter, please feel free to give me a call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peggy A. Lautenschlager". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

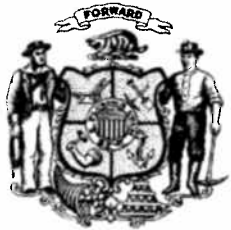
Peggy A. Lautenschlager
Attorney General

PAL: vlv

Cc: Committee Members
Senator Ted Kanavas



WISCONSIN STATE LEGISLATURE





TED KANAVAS
STATE SENATOR

Tuesday, September 16, 2003

DELIVERED VIA EMAIL

The Honorable Frank Lasee
Chairman, Assembly Committee on Government
Operations and Spending Limitations
Room 105-West
State Capitol Building
Madison, Wisconsin 53703

Dear Representative Lasee:

I respectfully request that Senate Bill 17 (SB 17) relating to: creating a Joint Committee on Court Judgments and Settlements made on behalf of the state; be scheduled for a hearing before the Assembly Committee on Government Operations and Spending Limitations. SB 17 was passed by the State Senate by a bi-partisan voice vote earlier this year and has the support of Attorney General Peg Lautenschlager. Attached please find a letter from her office, which was distributed to the Senate during committee hearings on this bill.

SB 17 is the culmination of several months of work and investigation by my office into the process Wisconsin's Attorney General uses to award grants from Victims' Restitution Fund that is authorized under s. 20455 of Wisconsin's statutes.

My investigation led to a series of newspaper stories in the *Milwaukee Journal Sentinel* in 2002. These stories highlighted the potential of irregularities in our grant-making process.

Wisconsin prides itself on our clean and open government and SB 17 seeks to ensure that this same open and clean reputation extends to grants made by the Attorney General from funds won through lawsuits filed on behalf of the citizens of Wisconsin.

I would also like to relay to you my appreciation for Attorney General Peg Lautenschlager's willingness to work with me on developing a bill that is not only good for the state but also for the people of Wisconsin.

STATE CAPITOL

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Page 2

In short, SB 17 provides a framework to ensure that all future grants made from the Victims' Restitution Fund have legislative input and occur in a fair, open and transparent manner.

Thank you in advance for your attention to this request. Please feel free to contact Bruce Pfaff in my office if you have any questions or concerns with this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted", written in a cursive style.

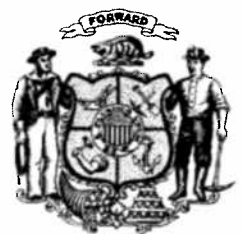
TED KANAVAS
State Senator, 33rd Senate District

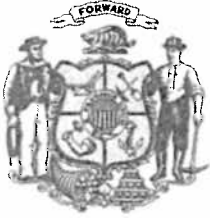
TJK/bap

Cc: Senator Mary Panzer
Representative Mickey Foti
File



WISCONSIN STATE LEGISLATURE





TED KANAVAS

STATE SENATOR

Chairman Lasee and members of the Assembly Committee on Government Operations and Spending Limitations, I would like to thank you for affording me the opportunity to testify in favor of Senate Bill 17 (SB 17). SB 17 has been in the works now for over a year, and I ask for your support for this bill today.

In the summer of 2002, my office filed for an open records request from then Attorney General Jim Doyle regarding decisions made while awarding monies won in the Vitamin Settlement on behalf of the state of Wisconsin.

When winning the Vitamin Settlement, the Attorney General at the time informed the presiding judge in the case that he would have a "Blue Ribbon Commission" to oversee the grants for the money. But, that was not the case. Instead, in documents obtained from his office, it was found that the Attorney General had bypassed his commission's recommendations and provided grant money directly to other organizations. In at least six cases, groups that were chosen by the Attorney General had made campaign contributions for his run for governor.

After hearing that the Attorney General had bypassed his commission's proposals for granting the money, the presiding Milwaukee County Circuit Court Judge Timothy Dugan said, *"That's not what was represented to the court, they referred to a blue-ribbon commission, which had reviewed a variety of options. If that is not the case, it would certainly put a different light on it."*

Furthermore, the meetings held by this commission failed to meet the standards of the open meetings laws. Then Attorney General, Jim Doyle, had even mentioned in his report *Wisconsin Open Meetings Law: A Compliance Guide (2000)* that *"any doubt as to the applicability of the open meetings law should be resolved in favor of complying with the law's requirement."*

In order to stop this type of behavior I have put forth this legislation to maintain open and transparent government. SB 17 does just that.

SB 17 will:

- Create a seven-member board comprised of four legislators and three public members. The legislators will be selected by their respective leaders; and the Attorney General, Governor, and the Supreme Court will have one public member nominated each. The board will be called the Joint Committee on Court Judgments and Settlements
- The board will only take up those settlements that the court has specified the "particular purpose" by which the money should be used. If the court has not set-

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- up the particular purpose and there are no clear recipients of the money, then the settlement money will be placed in the Budget Stabilization Fund
- The meetings will have to be posted and will be open to the public
 - All settlements over \$100,000 will go to the board for distribution
 - Actions by the board will then be monitored by the Joint Committee on Finance; however the committee only has authority to accept or decline the decisions of the Joint Committee on Court Judgments and Settlements. For this purpose, I have put a provision in that specifies that a legislator on this Committee cannot be a member of the Joint Committee on Finance that 10% of all the settlement money won, must go to the Department of Justice for court and investigation costs. Currently the money goes to the general fund, and it is important to reimburse the Department for money that they had expended to win the settlement on behalf of the citizens of Wisconsin. That amount is expected to be \$50,000 next year

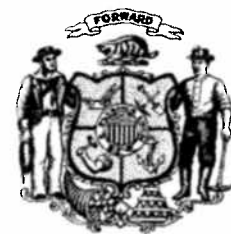
In the end, this is good public policy. It provides legislative oversight and public input into the grant making process. Most importantly it mandates that this grant process is done in an open and transparent manner.

I ask that you vote in favor of this legislation and help make this law.

Thank you for your support.



WISCONSIN STATE LEGISLATURE



Original URL: <http://www.jsonline.com/news/Metro/jun02/50524.asp>

Doyle's role in grants questioned

Judge says he was misled on settlement dispersal

By **BRUCE MURPHY**
of the Journal Sentinel staff

Last Updated: June 11, 2002

A judge who approved distribution of charitable money won from a lawsuit settlement says Attorney General Jim Doyle misrepresented the process used to pick grant recipients.

Doyle picked five of the 12 charitable groups that received money, rather than relying on the recommendations of the Vitamin Settlement Advisory Committee he established to make selections. Another five grants went to government agencies chosen by Doyle.

"That's not what was represented to the court," Milwaukee County Circuit Judge Timothy Dugan said. "They referred to a blue-ribbon commission, which had reviewed a variety of options. If that's not the case, it would certainly put a different light on it."

Individuals connected to at least six of the groups chosen by Doyle made donations to his campaign for governor shortly before or just after their grant awards were announced.

The revelations have prompted state Sen. Ted Kanavas (R-Brookfield) to call for legislative hearings to investigate how Doyle awarded \$6.4 million won from a multistate lawsuit against vitamin manufacturers. About \$1.3 million of the total went to the groups handpicked by Doyle's office rather than the advisory committee.

Of the remaining \$5.1 million, the advisory group awarded most of the money to two groups: Second Harvest of Wisconsin, which will receive \$1.9 million to provide food to the needy, and Marquette University, which will get \$1.5 million to set up two dental clinics in underserved areas of northern Wisconsin.

"As the chief law enforcement officer, Attorney General Doyle has a responsibility to ensure that the process of awarding money is done in an open, fair and transparent manner," Kanavas said. "Unfortunately, it appears he failed to do so."

Doyle declined to be interviewed, but Randy Romanski, a Doyle spokesman, said terms of the out-of-court settlement ending the lawsuit against the vitamin companies did not require that an advisory committee oversee the funding.

"At no point did the court say you have to do it a certain way," Romanski said. "Attorney generals from other states selected the groups to be funded on their own, without an advisory group."

But Dugan said that had he known the advisory committee had not made all the decisions, he would have asked "How did you come about reaching a decision on these groups rather than other groups?"

Under terms of the 21-state settlement, a judge in each state was required to approve terms of the agreement. Dugan was chosen to oversee the settlement in Wisconsin.

Campaign donations sought

Sherrie Tussler, executive director of the Hunger Task Force, says that after a grant application including her group was

submitted to the attorney general's office, she was approached by someone from the Doyle campaign and asked to donate.

"As a result, I donated the money," she says.

Tussler donated \$50, and her group later received a \$50,000 grant from Doyle.

As previously reported by the Journal Sentinel, Doyle received \$10,000 from movie producer Jerry Zucker after the attorney general donated \$250,000 in vitamin settlement money to a University of Wisconsin stem cell research program in Zucker's name.

Kanavas also charged that Doyle failed to follow the state's open meetings law, because the advisory committee did not conduct its business in public. Romanski said the law did not apply to the committee's deliberations because "this is not a statutory commission or body that was statutorily designated."

But Kanavas noted that Doyle has been a champion of openness in government and that his instructions to governmental agencies advise that "any doubt as to the applicability of the open meetings law should be resolved in favor of complying with the law's requirements."

Kanavas requested documents from Doyle's office, which show close communication between the office and Doug Nelson, executive director of the AIDS Resource Center of Wisconsin. The center ultimately won a \$210,000 grant from the attorney general.

In April 2001, Nelson e-mailed Deputy Attorney General Burneatta Bridge, stating that "Jim Doyle suggested . . . our HIV Specialty Dental Clinic for consideration as a possible recipient of funds from a recent legal settlement."

Three months later, in July, Nelson donated \$2,000 to the Doyle campaign for governor.

Three board members of the AIDS Resource Center also made donations to the Doyle campaign in late June or early July: \$250 from Jose Milan, \$100 from Criselda Ros-Dukler and \$100 from Michael Frank.

On Sept. 6, 2001, the vitamin advisory committee created a preliminary list of groups that would be awarded money. The list did not include the AIDS Resource Center.

Eight days later, Nelson e-mailed Bridge: "I am very, very grateful to the Attorney General for his support on this and will surely keep the information you shared with me confidential until you decide to announce it. . . . Once you make your awards decision final, it would be helpful if we could get from you some kind of a letter that informs us that we have been awarded these funds."

Three months later, on Jan. 30, 2002, the advisory committee announced a final list of grant recipients, which included the AIDS Resource Center. The center got the \$210,000 - the amount Nelson had requested.

Bridge said she did not remember the e-mails from Nelson. Deborah Fugenschuh, executive director of the Donors Forum of Wisconsin, a service agency for philanthropic organizations and individuals that facilitated the work of the advisory committee, says that groups such as the AIDS Resource Center, which were added to the list of recommendations by January, were really selected by Doyle.

Romanski insisted that there was nothing wrong with Doyle making some of the grant selections, saying: "The attorney general has been in office for 12 years. He travels the state. He knows where the needs are."

Other groups added

Between September and January, the advisory committee also added a \$50,000 grant to La Causa, whose director, David Espinoza, donated \$500 to the Doyle campaign in December.

The committee added a \$56,000 grant for the UW Center for Patient Partnerships, which submitted a grant application asking for \$48,300 to \$56,100 from Doyle in October. The center's founding team members, Julian Schink and Linda Rievitz, also

donated to the Doyle campaign. Schink gave \$100 in September and Rievitz gave \$100 the previous March.

Two other groups added between September and January were America's Youth 2000 and United Refugee Services of Wisconsin, which primarily serve Hmong people. Kanavas provided information showing that many individuals from the Hmong community donated to Doyle's campaign in December.

Thaas Ying Lee, executive director of United Refugee Services, said "maybe a few people from the community gave, but we had nothing to do with it."

Other groups received less favorable treatment from Doyle. In July, Kristina Stuart, coordinator of the Wisconsin Department of Health and Family Services' Birth to 3 Program, e-mailed Bridge and asked to submit an application for a vitamin supplement grant.

Bridge responded that "the status of the vitamin supplement process is quite advanced at this point. . . . It is unlikely that the committee will actively entertain brand new concepts at this point."

Documents also show that the Donors Forum originally proposed a "request for proposals" process, meaning a competitive grant process would be used to award the money. Romanski said the idea was eliminated by the advisory committee, but committee member Daniel Bader says Doyle helped make this decision.

"I don't think he came out and said 'Don't use RFPs,' but he alluded to the fact that it would be OK if we didn't do it," Bader said.

Kanavas has asked the Senate and Assembly Judiciary Committees to hold public hearings to investigate the settlement. Rep. Mark Gundrum (R-New Berlin) said he was considering Kanavas' request, but any hearings would not take place until the Legislature is next in session in January.

State Sen. Gary George (D-Milwaukee), who chairs the Senate committee and is an opponent of Doyle in the Democratic primary for governor, is unlikely to take action, aide Dave Begel said.

"If the Assembly is going to do it, I don't think the Senate will do anything," Begel said.

Gundrum said he may introduce legislation to create some form of oversight of grants made with lawsuit settlement money by the attorney general.

But Romanski said the Legislature should get its own house in order first.

"If Senator Kanavas was really serious about this issue, he would hold hearings on how the \$6 billion in tobacco settlement money was handled," Romanski said.

Appeared in the Milwaukee Journal Sentinel on June 12, 2002.