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# Wisconsin Legislative Council



Anne Sappenfield  
Director

TO: MEMBERS, JOINT COMMITTEE ON FINANCE

FROM: Anne Sappenfield, Director

RE: Department of Justice Proposed Plans of Settlement

DATE: October 18, 2023

This memorandum summarizes one case and four proposed plans of settlement that the Department of Justice (DOJ) submitted to the Joint Committee on Finance pursuant to s. 165.08 (1), Stats., in a letter dated September 27, 2023. DOJ seeks approval of the following settlements.

## **KUNES COUNTRY AUTOMOTIVE MANAGEMENT PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM I**

DOJ and Kunes Country Automotive Management, Inc., and eight affiliated auto dealerships have reached a pre-suit settlement relating to distributing prize mailers containing false, deceptive, or misleading representations. The state alleges that the auto dealership sent mailers that falsely implied that the attached game pieces determined whether the recipient had won a prize and that the recipient had won a specific, high-value prize.

The total monetary penalty proposed is \$43,750, including \$27,182.18 in forfeitures and \$2,292.58 in investigation costs and attorney fees. The defendants are also prohibited from:

- Misrepresenting that a recipient has won a specific prize.
- Representing that a recipient has “won” or is a “winner” unless the recipient is entitled to a prize that the majority of other recipients are not entitled to.
- Representing that a game piece included with the mailer determines whether the recipient is a winner unless the game piece is, in fact, determinative.

In addition, for two years, the defendants must provide the Department of Agriculture, Trade and Consumer Protection copies of examples of any prize mailers the defendants intend to send, at least 30 days prior to distribution.

## **WISCONSIN V. TURN KEY LEASING—AGENDA ITEM II**

*State of Wisconsin v. Turn Key Leasing, LLC, et al.* (Marquette County Case No. 2022-CX-3) is a civil enforcement against Turn Key Leasing, Kathy Terwelp, and Duane McClyman, relating to failing to comply with a Stop Use Order issued by the Department of Safety and Professional Services (DSPS). DSPS issued the order because the building owned and managed by the defendants was an imminent danger to public safety.

The total monetary penalty proposed is \$34,417, including \$26,999.61 in forfeitures. However the monetary penalty is stayed and will not be imposed if DSPS determines that the property is safe for occupancy. Specifically, the settlement:

- Prohibits persons from residing at the defendants' property until DSPS determines that the property is safe for occupancy.
- Requires construction work at the property to be performed only by licensed professionals in furtherance of gaining compliance with DSPS orders and the Wisconsin Commercial Building Code, while allowing the defendants to preserve, maintain, and protect the property.
- Permits commencement of construction work at the property only after building plans are submitted to, and approved in writing by, DSPS, unless granted a variance or some form of discretion by DSPS.

### **PAUL BUGAR TRUCKING PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM III**

DOJ and Paul Bugar Trucking, Inc., and Paul J. Bugar have reached a pre-suit settlement relating to violating their Wisconsin Pollution Discharge Elimination System (WPDES) permit. Paul Bugar Trucking is a road-construction business that also supplies materials, such as sand and gravel, to other companies. Paul Bugar Trucking also operates Romadka Pit in Clark County pursuant to a WPDES permit for non-metallic mining operations. The state alleges numerous violations of the permit.

The total monetary penalty proposed is \$100,000, including \$62,838.44 in forfeitures and \$7,500 in attorney fees.

### **PROKOP BROTHER'S DAIRY PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM IV**

DOJ and Prokop Brother's Dairy, LLC, and its principals, Kevin R. Prokop and Steven J. Prokop, have reached a pre-suit settlement relating to failing to obtain a required WPDES permit. The defendants own and operate a dairy farm that expanded and became a large, concentrated animal feeding operation (CAFO). The state alleges that, following the expansion of the CAFO, the defendants failed to obtain a WPDES permit for a large CAFO. The state also alleges that the defendants, on at least on occasion, discharged processed wastewater from a feed storage area to waters of the state without a permit.

The total monetary penalty proposed is \$33,000, including \$21,681.98 in forfeitures and \$1,000 in attorney fees. The defendants will also install and maintain temporary runoff controls on the feed storage area that is discharging to waters of the state until they abandon that area.

### **CHEMDESIGN PRODUCTS PROPOSED PLAN OF SETTLEMENT—AGENDA ITEM V**

DOJ and ChemDesign Products, Inc., have reached a pre-suit settlement relating to violations of air pollution laws. The state alleges that ChemDesign Products violated air pollution control laws at its toll chemical manufacturing facility.

The total monetary penalty proposed is \$150,000, including \$101,954.08 in forfeitures.

Please let me know if I can provide any further assistance.

AS:ksm