



State of North Carolina

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April 7, 2006

North Carolina Senate President Pro Tempore Marc Basnight
North Carolina House of Representatives Speaker James Black
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator John Snow
Senator Ellie Kinnaird
Representative R. Phillip Haire
Representative Joe L. Kiser
Co-Chairs, Appropriations Subcommittees on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5; Report on Settlement Agreement for King Pharmaceuticals, Inc.

Members:

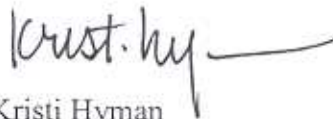
G.S. §114-2.5 requires the Attorney General to report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety regarding all settlements and court orders which result in more than \$75,000.00 being paid to the State. Pursuant to that statute, I am writing regarding the settlement of claims for Medicaid reimbursement to the State and Federal governments in the above-referenced matter. Pursuant to federal law (42 CRS 433.320) recoveries in these cases are shared on a pro-rata basis by the State and Federal governments.

On November 1, 2005 a Settlement Agreement was executed between King Pharmaceuticals, Inc. and the North Carolina Department of Justice. King Pharmaceuticals, Inc. is a manufacturer of pharmaceutical products and is headquartered in Tennessee. King Pharmaceuticals, Inc. manufactured and provided generic drugs for which the Medicaid Program made payment. The settlement covers the time period from January 1, 1994 through December 31, 2002. The State and Federal governments alleged that King Pharmaceuticals, Inc. had not accurately calculated drug prices reported to the Federal government for the purpose of establishing rebates due to State Medicaid programs under the Federal Medicaid drug rebate statute. As a result of these incorrect price calculations, Medicaid and other programs that were

due rebates from King Pharmaceuticals were underpaid some \$62 million nationwide. Pursuant to the Settlement Agreement, the United States and the States received restitution, penalties, and interest in the amount of \$124 million. Of this amount, North Carolina received restitution, penalties, and interest in the total amount of \$2,200,684.69. Of this amount, the North Carolina Medicaid Program received restitution and interest in the amount of \$1,075,823.88. A portion of the state share will be returned to the affected counties based upon their financial participation in the Medicaid Program. The State Supplemental Rebate Program received \$286.77. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. §115C-457.1, the penalty portion of the settlement in the amount of \$1,124,574.04 will be paid to the Civil Penalty Forfeiture Fund for the support of the public schools.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristi Hyman", followed by a long horizontal flourish line.

Kristi Hyman
Chief of Staff

KH:kds

cc: Denise Thomas, NCGA Fiscal Research Division
Nels Roseland, NCDOJ, Deputy Chief of Staff