
Weekly COVID-19 Oversight & Enforcement Report

October 1, 2020

A. Congress

1. The chairs of the House Select Subcommittee on the Coronavirus Crisis, Financial Services Committee, and Oversight and Reform Committee sent [letters](#) to the outside directors of Eastman Kodak seeking documents tied to the Trump administration's \$765 million government loan to the company to produce ingredients for generic drugs, including those to help treat COVID-19.
2. Energy and Commerce Chair Frank Pallone, Jr. (D-NJ), Health Subcommittee Chair Anna G. Eshoo (D-CA), and Oversight and Investigations Subcommittee Chair Diana DeGette (D-CO) [requested](#) the HHS Office of Inspector General to investigate potential political interference by the White House and Trump Administration political appointees into the scientific work of employees at the CDC responding to the COVID-19 pandemic.
3. The House Small Business Subcommittee on Innovation and Workforce Development held a [hearing](#) examining how the Small Business Administration's legacy technology systems fared throughout the implementation of the PPP. The hearing also covered recent issues surrounding the SBA's release of PPP loan data and their new system for PPP forgiveness. The House Small Business Subcommittee on Economic Growth, Tax, and Capital Access also held a [hearing](#) related to the PPP loan forgiveness process. Small business owners and lenders testified on problems they have encountered while navigating the loan forgiveness process.
4. Ranking Member of the Special Committee on Aging Bob Casey (D-PA) and Ranking Member of the Finance Committee Ron Wyden (D-OR) [released](#) a [report](#) that analyzed data reported to the Centers for Medicare & Medicaid Services (CMS) and the CDC by nursing homes for July and August. The data show persistent shortages of PPE, testing, and staffing in nursing homes and that on average, more than one resident was infected every minute and 11 residents died every hour.

B. Executive Agencies

1. OSHA [announced](#) it was no longer releasing detailed citations upon request or as part of its press releases. Instead, the agency now requires requests for those documents to go through the FOIA process, a procedure that allows the agency to take weeks or months to provide documents.
2. DOJ [announced](#) Tuesday that it has indicted a North Carolina man on allegations that he submitted 14 fraudulent loan applications seeking over \$6 million in PPP funds. He received \$1.7 million in PPP funds on behalf of false companies named Pan Insurance Agency, White Walker, Khaleesi, and The Night's Watch.

3. The SEC [told](#) a federal court in California last week that Arrayit Corp.’s president and chief science officer made misleading statements about the development status of the company’s corona virus blood test. The misleading statements caused Arrayit’s closing share price to spike 55% and its trading volume to increase 99%, the agency said. Prosecutors made similar allegations in a parallel criminal case unveiled in June.
4. California Governor Newsom signed [Assembly Bill No. 685](#) (AB 685). The law, which goes into effect January 1, 2021, implements requirements for employers statewide during the COVID-19 pandemic, including employee exposure notification and local health department reporting. The new legislation also increases Cal/OSHA’s authority in overseeing worker safety. Cal/OSHA may issue citations for serious violations related to COVID-19 without giving employers 15-day notice before issuance, and Cal/OSHA is authorized to shut down an entire worksite or specific worksite area that exposes employees to an “imminent hazard” related to COVID-19.

C. State Attorneys General

1. Illinois AG Kwame Raoul, leading a coalition of 18 AGs, wrote a [letter](#) to the SBA opposing the SBA’s proposed rule concerning PPP loan appeals, arguing that processes established by the rule fail to give the borrower due process, are confusing, and violate the Administrative Procedure Act.
2. After Kentucky AG Daniel Cameron announced price gouging investigations concerning online sales of pandemic-related essential products, the Online Merchants Guild sued, alleging the AG unconstitutionally gave his state’s law extra territorial effect. The court granted the plaintiff’s request for a [preliminary injunction](#). AG Cameron appealed to the Sixth Circuit, and a coalition of 31 AGs filed an [amicus brief](#) arguing that the district court misapplied the extraterritoriality doctrine, and that state AGs play a critical role in enforcing price gouging laws during emergencies as a lawful exercise of state police power.
3. In other price-gouging news, Minnesota AG Keith Ellison reached a [settlement](#) with an online reseller offering 3M N95 masks on EBay at prices 1744% higher than 3M’s retail price. Meanwhile, a court dismissed New York AG Letitia James’ price-gouging allegations against Quality King and its CEO. In a brief [order](#), the court found that Quality King’s prices were neither unfair nor abusive, nor did they represent a gross disparity from their pre-pandemic prices.
4. AG James filed a [lawsuit](#) against the parent companies of New York Sports Club and Lucille Roberts, alleging they unlawfully continued to charge consumers dues and fees despite the fact that health clubs and gyms have been closed since March. The suit alleges that, after temporarily suspending dues earlier in the pandemic, the parent companies resumed charging members in September, ignoring [previous admonitions](#) by the AG not to do so and in violation of state law.

D. Special Inspector General for Pandemic Recovery (SIGPR)

No updates this week.

E. Pandemic Recovery Accountability Committee (PRAC)

1. PRAC deputy executive director Linda Miller [said](#) that there has “never been a bigger challenge” in regard to government spending. “The investigations are ongoing, so we won’t know the scope of the fraud for years,” she said. “My guess is when we’re all said and done, it’s going to be significantly higher than 5% in the case of the CARES Act.” Similarly, Michael Horowitz, PRAC’s acting chairman, [said](#) current indicators suggest the level of misspent funds is higher than 1% of the CARES Act, and that the committee’s work continues to lead to arrests and fraud charges.