

## ARTICLES FOR 8-25-16 ROUNDUP

### Newest member of Crow tribe: Spiritual Runner, aka Attorney General Tim Fox

ADAM McCAW, for the Missoulian

CROW AGENCY – The announcer spoke almost exclusively in his native language Thursday night during a ceremony adopting Tim Fox into the Crow tribe. He broke into English only when saying Fox's job: "attorney general, state of Montana."

The ceremony could have been hard to follow for an outsider. Understanding on Montana's reservations can be hard to come by for people who aren't from there. The cultural divisions can keep Montanans apart, but Fox has a fluency dating back to childhood – with the tribes of southeastern Montana specifically – one of the reasons for the adoption.

The adoption of a non-Crow into the tribe is "not a small or easy thing to do," said Melissa Holds the Enemy, whose parents Howard and Vivian Shane made the decision to adopt Fox. In 2008, when then-Sen. Barack Obama was running for president, he too was adopted into the Crow tribe. In the ceremony late Thursday near the end of the first day of Crow Fair, Fox held feathers as he danced around the powwow arena flanked by his adoptive and extended family. He wore beadwork, and his shoulders were draped in a handmade quilt and blanket.

Drummers played as one of Fox's adoptive uncles told the story behind the attorney general's new Crow name, Spiritual Runner.

"Usually an Indian name is selected by the person doing the naming based on an accomplishment or achievement they had in their life. There will be a story that goes along with the name," Holds the Enemy said.

The name is fitting for Fox, who was a star track athlete in Hardin, where his father, who was also adopted into the tribe 50 years ago, ran a business.

"It's a natural thing for me to be involved in the lives particularly of the Crow and Northern Cheyenne people," Fox said. "I grew up respecting their work ethic and athletic abilities. Thankfully I had parents who felt it was very important for their kids to be introduced to the Native American people and cultures, so not only did I go to school with a lot of Native Americans but had a lot of Native American friends growing up."

Republicans, the party Fox belongs to, aren't known for garnering robust support from Montana's reservations. Native Americans here typically vote heavily for Democratic candidates up and down the ballot. And Montanans like Democrats for attorneys general – when Fox won the seat in 2012, he was the first from the GOP to do so in nearly a decade.

This year Fox is running for re-election against Larry Jent, a Democrat who filed on the last day possible to get on the primary ballot. At the start of August, Fox's campaign had nearly \$200,000 in the bank to Jent's \$23,000.

Fox's efforts to work with tribes and his innate ability to understand their issues has helped him make strong connections with Native leadership across the state, navigating a Department of Justice that has potential to be at odds with counties.

“He’s put action behind his words,” said Rob McDonald, communications director for the Confederated Salish and Kootenai Tribes.

After Fox was elected, about 50 high-level employees under Fox came out to the CSKT reservation for an in-depth training on the tribe’s history, perspective culture, legal setup and history of past agreements.

“This was in Pablo. He didn’t ask us to come to Helena. They all came here,” McDonald said. “They didn’t just politely attend but were engaged, asking questions, and listened,” McDonald said “It’s something we’ve definitely noticed.”

Fox said bringing his employees around the state has helped expose them to what’s second nature to him.

“A lot of my staff at the Department of Justice have not had the benefit of growing up in Indian Country like I have,” Fox said. “So for many of them this is somewhat of an introduction. I think they have grown and learned from that.”

Because tribes are sovereign nations, Montana’s government is limited in what it can do on reservations. The Department of Justice under Fox has been able to identify areas where it can be of help to the tribes, but only when invited.

“That’s been a big focus as attorney general, and I will continue to do what we can within the authorities that we have at the Department of Justice to help meet any needs that we might be called up to meet, Fox said.

Traffic can be a problem on some reservations where visitors pass through on heavily traveled highways. On U.S. 93 where the highway passes through CSKT land, Highway Patrol has an agreement with the tribe to let troopers patrol on the reservation.

“They interact with tribal members and know what they can and can’t do,” Fox said. “When they check in with our dispatch, they also check in with tribal dispatch to let them know if they’re on shift or off shift.”

Fox is working to expand that relationship at other reservations; currently there are no agreements at either Crow or Northern Cheyenne.

“What’s that done so far is opened doors,” Fox said. “I’m on the speed dial of many tribal leaders, and they’re on mine.”

Beyond the formal training, sharing a meal together, which is important in the cultures of tribes across Montana, has furthered relationships, McDonald said.

“Joking, sharing stories, it leads to discussions which aren’t necessarily on the agenda. It generates that sense that we’re in this together. We have the same challenges.”

McDonald remembers after that first training he wanted to thank Fox but didn’t have his number. He sent a message over the networking site LinkedIn.

“I was thinking it would disappear into the ether,” he said. “Within two minutes he wrote back, saying, ‘It was my pleasure to be there.’”

The potential for conflict with state and local government is constant when a sovereign nation sits within a county, Holds the Enemy said, but Fox works to make those relationships as successful as possible.

“With any tribe, there’s always interactions with the surrounding counties. Sometimes they’re good, sometimes it’s not so good,” Holds the Enemy said. “We end up depending on his ear for that and his steady hands for those types of situations. He’s always ready to listen and meet with us.”

It was Holds the Enemy’s family’s decision to hold the adoption during Crow Fair. Doing it during the fair, which marks the start of a new year for the Crow, is more special, she said.

As for the why to adopt Fox, it starts with a sincere connection to the Crow tribe, she said.

Part of the reason Fox understands the Crow tribe so well is his family’s long history in the area, Holds the Enemy said. “My dad said it only seemed right to officially adopt him as his son. He’s not only looking out for all of Montana but specifically his positive working relationship with the Crow tribe. Whenever we see him, whether it’s in his capacity when he’s at work or outside of work, he’s always very sincere about what he’s doing.”

In the past several years, other Republicans and the Crow tribe have formed an unexpected partnership over the threat Montana faces from a decline in coal mining.

U.S. Sen. Steve Daines, R-Mont., has worked to protect coal mining on the Crow reservation. Fox testified in front of the U.S. Senate’s Committee on Indian Affairs – of which Daines as well as Sen. Jon Tester, D-Mont., is a member – last year in Crow Agency on the importance of the Absaloka Mine. Fox has also supported the building of terminals to allow for coal to be shipped to markets.

“I’ve watched him. He’s really gone to bat for the Crow tribe in their fight to develop their own natural resources,” Daines said. “It’s more than just a head knowledge for Tim. It’s experience for him, having grown up there in Hardin. It really helps him understand the challenges the Crow tribe faces and frankly all the tribes in Montana.

“We’re all products of our experiences, and Tim grew up near the reservation; he was a very well-known athlete there,” Sen. Daines said “His family had done business with the Crow and Northern Cheyenne for years.”

Daines pointed to an unemployment rate of about 30 percent for the tribe and said if coal jobs were lost, that would jump to 80 percent.

“Tim brings that experience, and he also has a great respect for tribes, particularly the Crow tribe, because he lived there,” Daines said. “He understands the fundamental issues of sovereignty in defining the Crow people and their rights. He has lived and experienced what it means to grow up on the reservations.”

Fox’s father was adopted into the Crow tribe by the Pretty Paint family about 50 years ago, and his connection to the tribe was a large part of the attorney general’s childhood.

“It’s a natural thing for me to be involved in the lives particularly of the Crow and Northern Cheyenne people,” Fox said. “My parents would take us to culture events on the reservation, and

that helped me to appreciate the treasure that we have in Montana with our native peoples' traditions, the colorful customs, their languages, a lot of which as been threatened."

Thursday night before the adoption ceremony, Fox joked that he didn't have a handkerchief, saying the experience has touched him deeply.

"I cried when I found out about the adoption," Fox said. "We don't do the things we do for honors and accolades. Of the many great honors and wonderful things that have happened in my life with children and marriage and this job as attorney general, being adopted into the Crow tribe ranks right up there."

## **LAND INTO TRUST LITIGATION ENDS - HISTORIC VICTORY FOR ALASKA TRIBES**

Alaska Attorney General Jahna Lindemuth announced that the State of Alaska will not pursue further litigation in Akiachak Native Community v. U.S. Secretary of the Interior. That case affirmed the ability of the Secretary of Interior to take land into trust on behalf of Alaska Tribes and also acknowledged the rights of Alaska Tribes to be treated the same as all other federally recognized Tribes. The State's decision to not seek Supreme Court review ends years of protracted litigation and ushers in a new era for Alaska Tribes.

The case was brought in 2006 when four Tribes and one Native individual—the Akiachak Native Community, Chalkyitsik Village, Chilkoot Indian Association, Tuluksak Native Community (IRA), and Alice Kavairlook—brought suit challenging the Secretary of the Interior's decision to leave in place a regulation that treated Alaska Tribes differently from other federally recognized Tribes in the continental United States. NARF and Alaska Legal Services Corporation sought judicial review of the "Alaska Exception" which barred the acquisition of land in trust in Alaska other than for the Metlakatla Indian Community or its members. The State of Alaska intervened in defense of the regulatory bar on the basis that the differential treatment was required by the Alaska Native Claims Settlement Act (ANCSA). The District Court for the District of Columbia rejected both the Secretary and Alaska's defense of the regulatory bar and found in favor of plaintiff Tribes on March 31, 2013.

The Secretary of the Interior and the State of Alaska both initially appealed the decision to the D.C. Circuit Court of Appeals, but on May 1, 2014, the Secretary changed course and formally proposed repealing the Alaska Exception and accepting Alaska trust petitions. The Secretary explained that the Department had come to the conclusion that the importance of trust lands for tribal self-determination, self-governance, and fulfillment of the federal trust responsibility had convinced the Secretary to adopt a new regulatory policy for Alaska. The Secretary published a final rule on December 23, 2014, concluding the "removal of the Alaska Exception is supported by both legal and public policy considerations." The final rule removed "the categorical ban and provides for the Department to make a case-by-case determination on whether to take any given property into trust." With the Secretary's formal repeal of the Alaska Exception, the basis for the litigation no longer existed as the case became effectively moot.

The State of Alaska nonetheless pursued its appeal before the D.C. Circuit Court of Appeals and the case was argued March 4, 2016. A two-one majority entered an Order on July 1, 2016, that directed that the appeal be dismissed for lack of jurisdiction and the case be remanded to the District Court with instructions to vacate the judgment. The State had six weeks or until August 15, 2016 to decide whether to attempt to get a rehearing or further pursue litigation before the United States Supreme Court.

Last week's announcement from the State of Alaska that it will forego further litigation ends a long history of state/tribal animosity and represents a significant policy shift from prior administrations that chose to vigorously litigate any assertion of tribal sovereignty. Governor William Walker's decision to work with Tribes rather than against them ushers in a new era where tribal and state officials can cooperatively work together to protect the health, safety, and welfare of Alaska's tribal member citizens.

## **HEROIN TRAFFICKER AT LARGE JURY FINDS HIM GUILTY OF 5 FELONY CHARGES**

PHOENIX – Attorney General Mark Brnovich announced today a jury convicted Jose Castro-Felix of Queen Creek, Arizona of Conspiracy, Conducting an Illegal Enterprise, Possession of Cocaine for Sale, Possession of Heroin for Sale, and Money Laundering for his involvement in a Mexico-based cocaine and heroin trafficking organization. The conviction stems from Castro-Felix's possession of more than a \$1,000,000 worth of heroin and cocaine and \$50,000 in drug proceeds in August 2012. Castro-Felix failed to show up for his trial and is currently on the run. A judge issued a warrant for his arrest.

In August 2012, members of the Phoenix Police Department ("PPD") and United States Drug Enforcement Administration ("DEA") learned of an organization involved in the distribution of heroin and cocaine using pickup trucks. The officers conducted surveillance, which led them to a stash house hidden in a neighborhood near Ocotillo and Ironwood Roads. On August 15, 2012, officers saw a pickup truck arrive at the house and learned it had crossed from Mexico into the United States through the Douglas Port of Entry a few hours earlier. Castro-Felix was seen taking possession of the truck and backing it into the garage. Investigators obtained a search warrant and examined the truck inside the garage. The truck's front drive shaft was missing and the rear drive shaft had an empty aftermarket compartment in it. They also found the front drive shafts in an attic above the truck. Officers found cocaine hidden inside of the drive shafts. Additionally, the officers found a significant amount of cocaine, heroin, and currency in buckets which were also hidden in an attic. In all, PPD and DEA seized 33 pounds of heroin, 22 pounds of cocaine, and more than \$50,000 in drug proceeds.

Castro-Felix was convicted on August 16, 2016. A Maricopa County jury found him guilty of Conspiracy to Possess and Transport Narcotic Drugs for Sale, Illegally Conducting an Enterprise, Money Laundering in the Second Degree and Possession of Cocaine and Heroin for Sale. Anyone with information on Castro-Felix's whereabouts should call their local law enforcement agency immediately.

The Arizona Attorney General's Office Drug and Racketeering Enforcement Section prosecuted this case.

## **AG PETERSON ANNOUNCES OUTREACH EFFORT TO NEBRASKANS QUALIFYING FOR STUDENT LOAN FORGIVENESS**

Forgiveness applies to eligible students who attended Corinthian Colleges, including Everest, WyoTech, and Heald College

Lincoln - Nebraska Attorney General Doug Peterson today announced that his office would begin outreach to connect with Nebraskans who may qualify for complete discharge of their federal

student loans. Students who attended a program at Corinthian Colleges, including Everest, WyoTech, and Heald College online or on-campus programs, may be eligible for complete forgiveness of their federal student loans under a program run by the US Department of Education. Approximately 380 Nebraskans may still be eligible for loan forgiveness. The amount forgiven regarding those students is to be determined. Students need only fill out a simple attestation form in order to apply.

In early 2015, following enforcement actions by the federal government and other authorities, Corinthian Colleges, Inc., sold most of its schools and later closed the remaining ones. After an investigation, the Department of Education found that between 2010 and 2014, Heald, WyoTech, and Everest Colleges misrepresented job placement rates for many programs of study. These misrepresentations allow students to assert a defense to repayment claim and, thereby, have their loans forgiven.

Nebraska students who may be eligible for relief should call the Nebraska Attorney General's Office Consumer Protection Division at 800-727-6432 for help in determining eligibility and submitting applications for a borrower defense to repayment claim. In the coming weeks, the Attorney General's Office will also reach out to former Corinthian students via email, letter, and by phone to encourage students to apply for debt relief. Students may also apply by visiting the US Department of Education's website at the links below.

#### **FORMER HEALD STUDENTS**

Check to see if your program of study and dates of enrollment are on the list:  
<https://studentaid.ed.gov/sa/sites/default/files/heald-findings.pdf>

If your program of study and dates of enrollment are on the above list, submit an application for a borrower defense to repayment:

Online: Click here to access the online attestation form

Email: <https://studentaid.ed.gov/sa/sites/default/files/heald-attestation-form.pdf> and email it to the Department of Education at [FSAOperations@ed.gov](mailto:FSAOperations@ed.gov)

Mail: <https://studentaid.ed.gov/sa/sites/default/files/heald-attestation-form.pdf> and mail to "Department of Education, P.O. BOX 194407, San Francisco, CA 94119"

#### **FORMER WYOTECH AND EVEREST STUDENTS**

Check to see if your program of study and dates of enrollment are on the list:  
<https://studentaid.ed.gov/sa/sites/default/files/ev-wy-findings.pdf>

If your program of study and dates of enrollment are on the above list, submit an application for a borrower defense to repayment:

Online: Click here to access the online attestation form

Email: <https://studentaid.ed.gov/sa/sites/default/files/ev-wy-attestation-form.pdf> and email it to the Department of Education at [FSAOperations@ed.gov](mailto:FSAOperations@ed.gov)

Mail: <https://studentaid.ed.gov/sa/sites/default/files/ev-wy-attestation-form.pdf> and mail to "Department of Education, P.O. BOX 194407, San Francisco, CA 94119."

To obtain information about how to protect yourself as a consumer, file a consumer complaint, or report a scam, please visit the Nebraska Attorney General's Office, Consumer Protection Division website at [www.protectthegoodlife.nebraska.gov](http://www.protectthegoodlife.nebraska.gov) or call (800) 727-6432.

## **Attorney General Cynthia H. Coffman Announces Settlement Against Colorado Springs Company that Misled Distressed Homeowners, Including Members of the Military, in the Foreclosure Process**

DENVER—Colorado Attorney General Cynthia H. Coffman announced that her office has settled a lawsuit against Austin Home Ventures, LLC dba Capital Asset Recovery dba Capital Realty, Bryan Jensen, Ethan Eaton aka Ethan Graham, Bailey Perez, and Billy Fuston. The settlement requires Defendants to pay \$125,000 and includes injunctive relief to ensure compliance with the law and prevent future harm to consumers.

“If you are an unscrupulous business or individual looking to take advantage of homeowners in distress, my office is going to make sure you are held accountable,” said Attorney General Coffman. “This settlement returns money to homeowners in foreclosure who were misled by these Defendants and also helps to prevent future violations of the Colorado Consumer Protection Act directed at people already facing the loss of their homes.”

The lawsuit, filed in December 2015, alleged that Defendants failed to comply with the Colorado Consumer Protection Act and Colorado Foreclosure Protection Act when they offered to assist foreclosed homeowners in obtaining overbid funds. An overbid occurs when a home is sold for more than the total amount owed on the mortgage loan. Although homeowners can obtain overbid funds at no cost through the appropriate public trustee’s office, Defendants charged 20-50% of the amount of the overbid for their services and misrepresented the nature of the overbid recovery process. Consumers who paid Defendants for their overbid recovery services will receive restitution under the settlement. The settlement also prohibits Defendants from acting as foreclosure consultants.

Additionally, the Attorney General asserted that three of these Defendants—Austin Home Ventures, LLC, Mr. Jensen, and Mr. Eaton—violated Colorado law when they misled distressed homeowners about the services they would provide. Instead of helping homeowners, the Attorney General claimed that these Defendants rented homeowners’ properties to third parties and collected and kept rental payments without the knowledge or consent of the homeowners. Many of the impacted homeowners were members of the military who needed to quickly relocate. The settlement prohibits Defendants from acting as equity purchasers or entering into any agreement concerning real property that is either subject to a foreclosure or where the underlying mortgage loan is at least 30 days delinquent or in default.

Attorney General Coffman thanks the public trustees of Adams, Arapahoe, Denver, El Paso, Larimer, Pueblo, and Weld counties for their assistance in this investigation and lawsuit.

To review a copy of the State’s complaint and final consent judgment please go to <http://www.stopfraudcolorado.gov/our-cases/mortgage-foreclosure/austin-homeventures-llc-dba-capital-asset-recovery-dba-capital>.

## **Attorney General Bondi Shuts Down Multimillion Dollar Tech Support Scam**

TALLAHASSEE, Fla.—Attorney General Pam Bondi this week obtained a court order temporarily shutting down a tech support company that, along with its owners, allegedly deceived consumers out of more than \$25 million. The scam operated as Client Care Experts, formerly known as First Choice Tech Support, LLC, and is owned by CEO Michael Seward and his partner,

Kevin McCormick. The defendants ran the tech support scam out of a boiler room in Boynton Beach and employed more than 200 telemarketers at the location.

The order follows an effort by defendants to dissolve an earlier order obtained by Attorney General Bondi's Office that temporarily shut down the business, froze the defendants' assets to preserve funds for consumer restitution and appointed a receiver to oversee the operation through the conclusion of the case. This week, the court denied the defendants' motion to dissolve and kept the previous order in place pending the final judgment.

"Floridians rely on computers to communicate with family and friends, make purchases and conduct business, and when scammers target these devices they can scare and frustrate consumers, especially our seniors. That is why we are working diligently to identify and stop tech scams targeting Floridians," said Attorney General Bondi.

Attorney General Bondi's original complaint alleges that the defendants used deceptive marketing tactics to create alarming pop-up windows on consumers' computers claiming computers were infected. The pop-up warnings directed consumers to contact a toll-free number that connected to the defendants' boiler room. Once connected to the boiler room, unscrupulous sales agents, posing as computer technicians, claimed to conduct a computer diagnostic test that uncovered malware on the devices. The sales agents then convinced consumers to spend an average of \$250 to fix the devices.

The complaint seeks an injunction barring the defendants from engaging in deceptive business practices, and also seeks full restitution for consumers harmed by the defendants' activities. With the defendants' motion to dissolve denied, the case will move forward.

## **Schuette: South East Michigan Man Enters Guilty Plea for Role in Mortgage and Debt Management Scheme**

LANSING – Michigan Attorney General Bill Schuette today announced that Pasquale Longordo, 39, of Birmingham, and his company Modify Loan Experts, LLC, pleaded guilty to two felonies and 27 misdemeanors for stealing money from Michigan residents who were facing mortgage foreclosures or needed help managing their credit card debt.

"Today's guilty plea brings some closure and more importantly restitution to the men and women left in a financial hardship due to this man's deception," said Schuette. "Individuals who take advantage of people when they are going through a hard time for their own personal benefit will not be tolerated. I want to thank my Homeowner Protection Unit for their diligent work in bringing this case to a close."

Longordo pleaded guilty in front of Judge Wendy Potts of Oakland County Circuit Court to the following charges:

One count of False Pretenses, a five year felony;  
Six counts of Attempted Debt Management Act, a misdemeanor;  
Seven counts of Credit Services Protection Act violations, a misdemeanor; and  
One count of Unemployment Compensation Fraud.

Longordo also paid \$125,000 in restitution at today's hearing. The money will be distributed to his victims.

Longordo is scheduled to be sentenced on September 27, 2016, at 8:30 a.m. in the Oakland County Circuit Court.

The Department of Attorney General was assisted on this case by the Federal Housing Finance Agency, Office of Inspector General.

“Pasquale Longordo took advantage of victims desperate to keep their homes. He not only mislead them in his ability to negotiate on their behalf, rendering them helpless, but he also took their money and used it for his personal gain,” said Catherine Huber, Special Agent in Charge, Midwest Region, Federal Housing Finance Agency, Office of Inspector General. “The guilty plea today is the first step in holding him accountable for his criminal conduct. Our office is committed to working with our law enforcement partners to seek justice for victims of this type of fraud.”

#### Case Background

Longordo and Modify Loan Experts allegedly promised victims that they would have an attorney assigned to represent them and negotiate mortgage modifications on their behalf with mortgage companies. However, this did not happen and many victims lost their homes as a result.

Additionally, Longordo, who also operated a credit card debt management service, allegedly told debt management victims he was putting their funds into an escrow account and that he would use the payments to negotiate their debt with credit card companies. In reality, Longordo put the victims’ funds into a regular bank account and allegedly used that account like his personal ATM.

### **Texas Attorney General Obtains TRO to Stop Unauthorized Legal Service Operation in El Paso**

Attorney General Ken Paxton today announced that a state district court in El Paso issued a temporary restraining order (TRO) for Moises Eloy Castillo and Servicios Profesionales, L.L.C. for violations of the Texas Deceptive Practices Act (DTPA) and the Texas Notary Public Act. The lawsuit seeks civil penalties of up to \$20,000 per violation of the DTPA.

According to the lawsuit, Castillo, a commissioned Texas notary public, solicited customers, through Servicios Profesionales, L.L.C. and other business names, by falsely claiming that he was an attorney with the skill and knowledge to handle his clients’ legal services. During the course of the investigation, it was determined that Castillo is not authorized to practice law in the State of Texas or any other jurisdiction within the United States. Castillo actively advertised his legal services in the State of Texas and promoted himself, through Servicios Profesionales, L.L.C. and other business names, as an attorney offering a variety of legal services including divorces, powers of attorney, custody issues, the preparation of immigration forms and other immigration services.

Under federal law, only attorneys who are licensed to practice law in the United States and organizations accredited by the United States Department of Justice’s Board of Immigration Appeals may offer immigration services to the public. In addition, Texas law authorizes notaries public to witness the signing of legal documents, but specifically forbids them from providing legal services unless they hold a separate license to practice law in the United States. Scam artists have long exploited the misunderstanding between the term notary and the similar-sounding Spanish term notario público, which is used in Latin America to describe highly experienced, specialized attorneys.

## Dietary Supplement Industry Elevates Efforts to Engage State Attorneys General

by Josh Long

On Feb. 18, 2016, Alabama Attorney General Luther Strange toured a manufacturing and packaging facility operated by Pharmavite LLC, the maker of the Nature Made line of vitamins and nutritional supplements.

Strange's reaction to the experience? "Very favorable," according to Paul Bolar, vice president of regulatory affairs with Pharmavite, who was among several company and industry executives to accompany the state attorney general during the tour of Pharmavite's Opelika, Alabama-based facility.

"I think he was very interested in what he saw, asked a lot of questions [and] seemed impressed with the technology and the layout of the facility," Bolar said in a phone interview.

Bolar described such tours as an opportunity to educate state attorneys general (AGs) on "how the industry conforms to GMPs (good manufacturing practices) and the way we are regulated and how responsible parties in the industry conduct their business."

Rend Al-Mondhiry, associate general counsel of the Council for Responsible Nutrition (CRN), was present during the tour. She said Strange observed such particulars as the storage of ingredients before they are tested and a camera that takes snapshots of labels for compliance with regulations.

"I think it's important for the AGs to see this because without a visual representation of what is involved in making a supplement, they just don't understand the level of sophistication of the regulations and what's required," Al-Mondhiry said in a phone interview.

Strange's office didn't respond to multiple requests for comment. However, his tour of the facility illustrates how far a US\$37 billion industry has come in building connections over the last 1 1/2 years with state AGs—following New York Attorney General Eric Schneiderman's allegations in February 2015 that four U.S. retail giants sold a variety of herbal supplements that failed to contain the labeled ingredients.

CRN is planning additional tours of its members' facilities with state AGs, Al-Mondhiry said.

Steve Mister, president and CEO of CRN, recommended companies take a proactive role in reaching out to the state AGs. "A really good way to do that is to educate them, bring them into the facility," Mister said in a phone interview. "Let them see what GMPs look like when they are being fully executed."

"There's kind of an old saying, 'You want to know [them] before you need [them],'" observed former Arkansas Attorney General Mark Pryor in a recent podcast interview with INSIDER. "You're always in a better position if they know who you are and you've met them ... If your first contact with the state attorney general's office is when you get that subpoena or you get that CID [civil investigative demand], you know you're behind the 8-ball already."

General Nutrition Corp. (GNC) found itself behind the 8-ball in 2015. The retail giant didn't even realize it was under investigation by Schneiderman's office until The New York Times contacted the company seeking comment. New York authorities later acknowledged in an agreement with GNC that they found no evidence that the company had deviated from federal manufacturing

regulations, namely the GMPs. But GNC still agreed to make certain concessions; most notably, the company agreed to use DNA barcoding to confirm the authenticity of herbal ingredients.

"I remain concerned about the lack of independent testing, the effectiveness of current quality and safety standards, as well as labeling requirements to ensure consumers know exactly what is in the products they are ingesting," Indiana Attorney General Greg Zoeller said in an email to INSIDER.

That supplement makers have sought to engage state regulators isn't surprising to the likes of Zoeller since the industry has been the target of investigations.

"The information we receive from industry representatives is educational and can be helpful to any review or investigation," he said. "I've regularly relayed to the industry that it should do more as well to develop greater self-regulation of their products if federal oversight is so lax that it would allow the potential for bad actors to engage in questionable or even illegal business practices."

Last year, 14 AGs including Schneiderman and Zoeller sent a letter to Congress asking it to launch a comprehensive inquiry into the herbal supplement industry and give FDA more authority to regulate botanical supplements. The letter cited a number of concerns, including the sale of muscle and weight loss products containing hidden pharmaceutical ingredients, the presence of heavy metals in certain supplements, and failures to adhere to GMPs, such as the requirement to verify the identity of a dietary ingredient through a test or examination.

Iowa Attorney General Tom Miller also signed the letter.

Iowa First Assistant Attorney General Kevin McCarthy said, "We [and] other AGs are in general concerned over what is largely an unregulated industry because of the 1994 federal legislation," referencing the Dietary Supplement Health and Education Act (DSHEA).

McCarthy questioned whether the products are effective.

"Generally speaking ... there's a lot of question out there among people in the scientific community of whether these products ... do anything," he said in a phone interview. "In some cases, there is no good research. In other cases, there is conflicting research. And so that's a larger concern."

In spite of the growing criticism of the industry in recent years, relatively few states have announced high-profile lawsuits or investigations against companies. New York and Oregon AGs are notable exceptions. But Idaho Assistant Chief Deputy Attorney General Brian Kane said other states view the sector as an emerging area.

Kane recently weighed in on the supplement industry during the annual meeting of the Conference of Western Attorneys General (CWAG) in Sun Valley, Idaho. In a session focused on nutritional supplements and moderated by Colorado Attorney General Cynthia Coffman, Kane joined representatives from CRN, Pharmavite and USP (U.S. Pharmacopeial Convention).

"My main theme was that now is the time for attorneys general to get smart on these issues, to understand what's coming in front of them," Kane said in an interview. "That on the industry side, if they say that an ingredient is in the supplement, then they better make sure that the ingredient is in the supplement. Otherwise, we are going to have questions about it."

Doug Gansler, former Attorney General of Maryland, described the CWAG session as "notably positive and congenial," as distinguished from a supplements panel held last year in St. Louis at the National Association of Attorneys General meeting.

"This positive shift indicates that the dietary supplement industry's state AG educational and advocacy engagement is working and that perhaps negative attention from state AGs is diminishing," wrote Gansler, a partner with the law firm Buckley Sandler LLP, in a report prepared for American Herbal Products Association (AHPA) and United Natural Products Alliance (UNPA) members. "The panel also demonstrated that attitudes on both sides are shifting—that industry is heeding the call for honest dialogue about its shortcomings and need for increased self-regulation and that state AGs are beginning to distinguish the responsible industry as a whole from the few bad actors."

While Gansler cited progress, he conceded in the report "that there is more work to be done."

Case in point: some attorneys who attended the CWAG meeting agreed the state AGs are still learning about regulations governing the supplement sector.

"At least one of the attorneys general, and I'm not sure which one it was, said to me, 'Well, I heard acronyms for laws that I didn't even know existed,'" said Lori Kalani, who is the co-chair of the law firm Cozen O'Connor's State Attorneys General Practice, in a phone interview. "They said, I didn't know what DSHEA was' ... That gets you thinking that here are these offices that are really in some cases delving into enforcement actions in an area they know very little about."

Still, the state AGs shouldn't be underestimated in litigation, cautioned Pryor, who was elected Arkansas's attorney general in 1998 and later went on to serve in the U.S. Senate for several years.

"These attorney general offices, by and large, are very good lawyers," said Pryor, who leads Venable LLP's Legislative and Government Affairs and State Attorneys General practice groups. "They have very experienced lawyers and they do these type of investigations all the time, they bring these kind of cases all the time, so don't think that you're getting the B-team when you are getting the state AG's office."

By building relationships with the state regulators, companies in the supplement sector might have a better chance of avoiding a costly investigation, or resolving a dispute before allegations of fraud are splashed on the front page of the newspaper. Pryor noted a plant visit can be effective in demonstrating the steps a company must follow to produce a product.

Said the former U.S. senator and state AG: "I know for me, and most people, when you actually walk into a facility and see all the steps they have to go through, and all these steps are based on regulations, it kind of drives home the point that ... these people are legit and they are following all the rules."

**Editor's Note:** Looking to understand the breadth of AG's authority and what may be coming next? Join us for the State Attorneys General: Communication & Mitigation Strategies workshop on Wednesday, Oct. 5, at SupplySide West 2016.