ARTICLES FOR 11-17-16 ROUNDUP

District Court Upholds Alaska's Campaign Finance Laws

(Anchorage, AK) – On November 7, 2016, the U.S. District Court in Alaska upheld Alaska's campaign finance laws, finding that the State presented sufficient justification for the contribution limits.

"This is a great result for the State," said Attorney General Jahna Lindemuth. "Alaska's campaign finance limits were enacted to bolster the public's trust in our elections process, while balancing the first amendment rights of individuals. The district court agreed that our state has struck the right balance."

State law prohibits an individual from contributing more than $500 annually to a candidate or to a group that is not a political party, such as a PAC. State law also sets aggregate limits on the dollar amount a candidate can accept from non-residents and on the amount a political party may contribute to a candidate. Three individuals along with District 18 of the Alaska Republican Party challenged the limits on constitutional grounds. Judge Burgess held that all of these limits are constitutional.

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AG: GROCERY MANUFACTURERS ASSOC. TO PAY $18M, LARGEST CAMPAIGN FINANCE PENALTY IN US HISTORY

Court rules GMA intentionally violated state disclosure laws in AG's enforcement case

OLYMPIA — In a historic decision, a Thurston County Superior Court judge today ordered the Grocery Manufacturers Association to pay $18 million in penalties and punitive damages, after Attorney General Bob Ferguson's lawsuit revealed GMA intentionally violated Washington campaign finance laws. The case arose from Ferguson's investigation of the finances of opposition to voter Initiative 522, which would have required labeling of genetically modified organisms, or GMOs, in food sold to consumers.

"In light of all the evidence in the record, it is not credible that GMA executives believed that shielding GMA's members as the true source of contributions to GMA's Defense of Brands Account was legal," Judge Anne Hirsch wrote in her ruling.

The ruling against GMA — a Washington, D.C.-based trade group representing major food, beverage and consumer companies — is believed to constitute the largest campaign finance judgment in United States history.

"I took this case to trial because the GMA needed to be held accountable for their arrogance and willful disregard of Washington state campaign finance laws," Ferguson said.

Judge Hirsch found that the testimony of GMA President and CEO Pamela Bailey "was combative at times. Bailey often would not answer direct questions and frequently answered questions with questions of her own, and gave lengthy explanations that appeared designed to lecture the court and counsel for the State."

Ferguson filed the lawsuit against GMA in October 2013. Earlier this year, Judge Hirsch granted the Attorney General's Motion for Summary Judgment and ruled that GMA violated state campaign finance laws when it failed to register and report its political committee, which opposed I-522. GMA was identified as the largest contributor to the "No on 522" political committee in campaign disclosure filings. However, over 30 members of GMA actually financed the opposition campaign through a special, earmarked account but were not initially identified as individual donors.

Judge Hirsch then ordered a trial to determine whether GMA's violations were intentional. Under Washington state law, penalties for campaign finance disclosure violations can equal the amount of money concealed from Washington voters. Where a court finds that the violation was intentional, the court has discretion to triple that penalty.

After a trial from Aug. 15 to Aug. 18, Judge Hirsch heard closing arguments on Aug. 30.

In today's ruling, Judge Hirsch determined that GMA's violations of law were intentional and tripled a $6 million penalty, for a total of $18 million, including punitive damages.

Judge Hirsch explained the factors in favor of imposing the penalty and punitive damages:

"Those factors include violation of the public's right to know the identity of those contributing to campaigns for or against ballot title measures on issues of concern to the public, the sophistication and experience of GMA executives, the failure of GMA executives to provide complete information to their attorneys, the intent of GMA to withhold from the public the true source of its contributors against Initiative 522, the large amount of funds not reported, the large number of reports filed either late or not at all, and the latest of the eventual reporting just shortly before the 2013 election."

Anne Levinson, chair of the Public Disclosure Commission, which enforces our state's campaign expenditure and disclosure laws, praised the decision: "The Court's ruling is a major victory for the integrity of elections in our state. The PDC and the Attorney General will not hesitate to take strong enforcement action whenever there is an attempt to conceal campaign donors."

In 2013, GMA raised over $14 million for a new "Defense of Brands" account. These funds came as a solicitation and were above and beyond regular member association dues. PepsiCo, for example, contributed nearly $3 million to the account. Nestle and Coca-Cola contributed nearly $2 million each.

GMA then contributed $11 million of that $14 million to "No on 522." In an effort to shield individual companies from required disclosure, the money was listed as coming from GMA, not the actual donors, such as Pepsi, Nestle and Coke.

Internal GMA documents obtained as a result of Ferguson's lawsuit revealed an intentional, systematic effort to conceal the true sources of those contributions to "No on 522."

For example, meeting minutes from the GMA Board's Finance and Audit Committee meeting show a discussion on the creation of the "Defense of Brands Strategic Account," largely to oppose I-522: "By doing so, state GMO related spending will be identified as having come from GMA, which will provide anonymity and eliminate state filing requirements for contributing members."

Additionally, in one GMA Executive Committee meeting, the Executive Vice President for Government Affairs noted that the fund would "shield individual companies from public disclosure and possible criticism."

In 2013, the top 10 contributors to GMA's Defense of Brands account and their contributions (as of 12/3/13) were:

PepsiCo: $2.696 million
Nestle USA, Inc.: $1.751 million
The Coca-Cola Company: $1.742 million
General Mills: $996,000
ConAgra: $949,000
Campbell Soup: $441,000
The Hershey Company: $413,000
J.M. Smucker: $401,000
Kellogg: $369,000
Land O'Lakes: $332,000

The ruling from Judge Anne Hirsch included the $18 million penalty plus an award of trial and investigative costs as well as attorney fees. Those costs and fees will be determined at a separate court hearing to be scheduled.

The largest penalty ever handed down in a Federal Election Commission case was $3.8 million in 2006. In Washington, the largest such case involved a $735,000 penalty in 2000.

An AGO review of precedents found no other state case that exceeded today's ruling.

Senior Assistant Attorney General Linda Dalton, Deputy Solicitor General Callie Castillo, and Assistant Attorney General Garth Ahearn handled this case for the state.

Mahin Khan Sentenced to 8 Years in Prison after Plotting Terror Attack in Arizona

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Mahin Khan Sentenced to 8 Years in Prison after Plotting Terror Attack in Arizona

PHOENIX - Arizona Attorney General Mark Brnovich and the Phoenix Field Office of the Federal Bureau of Investigation announced today the first successful prosecution of a state level Terrorism charge in Arizona. A judge sentenced 18-year-old Mahin Khan to 8 years in prison for plotting a terrorist attack at a Motor Vehicle Division office in Maricopa County. Khan will be placed on lifetime probation after his release from prison.

“Justice was served, we prevented a terrorist attack in Arizona,” said Attorney General Mark Brnovich. “We have a duty to do everything we can to protect our community from extremist acts. I’d like to thank our partners at the FBI & the JTTF for their diligent work on this case.”

“Mahin Khan is another young individual in the U.S. who was inspired to commit acts of violence. This case illustrates the evolving nature of the terrorist threat today," said Michael DeLeon, Special Agent in Charge of the Phoenix Field Office. “We want the community to know that this case is an example of the successful collaborative efforts among the JTTF, FBI, state and federal partners. The partnership that exists between these agencies is essential as we join together with a common goal, to protect the city and its citizens from those who wish to do us harm.”

In October 2016, Mahin Khan pled guilty to Terrorism, Conspiracy to Commit Terrorism, and Conspiracy to Commit Misconduct Involving Weapons. Khan was indicted in July 2016 after an investigation by the FBI’s Joint Terrorism Task Force. The charges stem from an investigation into Khan’s repeated communication and conspiracy with an individual whom he believed to be a fighter with ISIS (Islamic State in Iraq and Syria) to obtain weapons including pipe bombs or pressure cooker bombs, and to commit an act of terror in Maricopa County.

As always, the public is encouraged to remain vigilant and report suspected terrorist or criminal activity online at tips.fbi.gov (link is external).

Assistant Attorneys General Blaine Gadow and Scott Blake prosecuted this case.

ATTORNEY GENERAL LAXALT FILES MOTION TO INTERVENE IN BI-STATE SAGE-GROUSE LAWSUIT

Carson City, NV – Today, Nevada Attorney General Adam Paul Laxalt moved to intervene in a lawsuit on behalf of the State of Nevada over conservation efforts of the Bi-State sage-grouse, a species of sage-grouse that lives along the Nevada-California border. In April 2015, the U.S Fish & Wildlife Service determined that the bird did not warrant protection under the Endangered Species Act. This finding was made partially in deference to an unprecedented conservation alliance between Nevada, California and the United States government. Environmental activist groups now challenge that determination. Nevada, which has managed and protected the bird for many years, is seeking to participate in the case to ensure that Nevada's conservation efforts are not displaced by the Endangered Species Act.

"I continue to be committed to defending Nevada’s central role in protecting habitat in our State, including using litigation as a tool when necessary,” said Attorney General Adam Laxalt. “Nevada has always made an effort to preserve, protect, manage and restore its diverse wildlife, and the

State has moved to intervene in this suit to ensure the concerns and interests unique to Nevada are heard. I am proud to work with Governor Sandoval to protect Nevada's conservation efforts."

Governor Brian Sandoval added, "In April, 2015, federal, state, and local representatives came together following multistate, bipartisan efforts spanning more than 15 years to announce a successful partnership which resulted in keeping the bi-state sage-grouse off the endangered species list. I joined United States Secretary of the Interior Sally Jewell as she announced that the bi-stage sage-grouse population did not warrant protection under the Endangered Species Act protection 'due to science-based efforts' and 'epic collaboration'. I am frustrated to see fringe groups threaten our unprecedented efforts and asked Attorney General Laxalt to act in the best interest of Nevada and intervene in the lawsuit which challenges the Department of Interior's decision."

In 2002, Nevada created a group that initiated a multi-year effort to produce a lasting, effective conservation plan for sage-grouse. By 2011, Nevada and California, along with the U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, Natural Resources Conservation Service and U.S. Geological Survey formed an oversight committee in an effort to conserve the species. This culminated in the 2012 Bi-State Action Plan.

"My stance on this matter has not changed: Nevada knows best how to manage its wildlife," stated United States Senator Dean Heller. "As evidenced by the prevention of the bi-state sage-grouse from being listed as a threatened species, Nevada's own forward-thinking conservation efforts are yielding positive results. This remains a very important issue for our state. I applaud Attorney General Laxalt's action to support and protect the conservation efforts put forth by stakeholders on the federal and local level."

Congressman Mark Amodei emphasized, "For 152 years, Nevadans have lived with decisions made by Washington bureaucrats 3,000 miles away--even when local management has proven to be more effective. This holds true in Nevada where locally driven conservation plans, efforts praised by USFWS Director Dan Ashe and DOI Secretary Sally Jewell, have effectively kept sage hen off the endangered species list. I commend Attorney General Laxalt on taking necessary action to ensure Nevada has a seat at the table to overcome the 'Washington knows best' mentality that routinely ignores the best interests of local stakeholders."

"The Nevada Association of Counties firmly believes the U.S. Fish and Wildlife Service did the right thing to utilize the State of Nevada's Bi-State Action Plan and to work with the State and local communities to effectively achieve the Endangered Species Act's goal to conserve species so that there is no need to list them," said Jeff Fontaine, Executive Director of the Nevada Association of Counties. "This demonstrates that counties and their citizens can make a difference and continue to thrive alongside the species and land they cherish. NACO applauds the State for intervening alongside the FWS and is also doing the same on behalf of the five Nevada counties that would be impacted by this lawsuit."

State Joins ASRC and Others Seeking Supreme Court Review of Critical Habitat Designation

(Anchorage, AK) – The State of Alaska today joined in filing a petition for writ of certiorari with the U.S. Supreme Court in response to a Ninth Circuit Court of Appeals ruling in February of this year. That ruling reinstated approximately 187,000 square miles of Alaska coastline and adjacent waters designated by the U.S. Fish and Wildlife Service as critical habitat for polar bears, an area larger than the state of California.

Other petitioners include Arctic Slope Regional Corporation (ASRC), the North Slope Borough, the Iñupiat Community of the Arctic Slope, Kaktovik Iñupiat Corporation, Kuukpik Corporation, Ukpeaġvik Iñupiat Corporation, Olgoonik Corporation, Inc., Tikigaq Corporation, the Bering Straits Native Corporation, NANA Regional Corporation and Calista Corporation.

"A critical habitat designation covering over 187,000 square miles would greatly impact our entire state," said Attorney General Jahna Lindemuth. "All we ask is that the designation be legally justified through scientific evidence showing a connection between the habitat and the protection of the bears. That didn't happen for all the areas designated in this case. The result is great economic impacts without evidence that it is actually necessary to protect the species."

The State along with the other petitioners had previously challenged and overturned the designation through a district court decision in 2013 based on many errors associated with the critical habitat designation. On appeal, the Ninth Circuit Court of Appeals reversed the district court. Petitioners are now asking the United States Supreme Court to weigh in on the case.

South Dakota Joins Wolf Release Challenge to Protect State Wildlife Management and Livestock Interests

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PIERRE, S.D. – Attorney General Marty Jackley announces that South Dakota has joined 16 other states in an amicus or "friend of the court" brief that argues the U.S. Fish and Wildlife Service (USFW) was properly enjoined by the Federal Trial Court from further release of Mexican wolves pending permits from the State of New Mexico. The brief was filed in the U.S. 10th Circuit Court of Appeals.

"The release of wolves can have a devastating effect on wildlife management and livestock producers. The States have historically managed the wildlife within their borders and are better equipped to balance wildlife needs with our agricultural interests. The federal government is ignoring the interests of our States by introducing wolves into the State's wildlife system and then not allow the State to manage and balance wildlife and livestock interest," said Jackley.

New Mexico denied the request by the USFW to release Mexican wolves, but did not permanently veto the wildlife release. New Mexico officials asked that the USFW prepare and submit a federal species management plan along with the permit application so that state officials could determine whether the proposed releases would conflict with state conservations management efforts. The USFW failed to submit any such plan.

Federal regulation requires the USFW to adhere to state permit requirements prior to releasing wildlife under certain federal programs unless the state requirements impede the Secretary of Interior's ability to carry out her responsibilities under the Endangered Species Act. The brief argues that it provides an important check on federal authority to intrude into wildlife management, an area that is generally the purview of the States.

There is no cost to the State of South Dakota to join this challenge.

Montana Joins Bipartisan Coalition Warning EPA Not To Violate U.S. Supreme Court Order

Montana Attorney General Tim Fox and the Montana Public Service Commission, along with 25 other state attorneys general, two other state public utility commissions, and four state environmental quality departments, submitted joint comments Tuesday to the U.S. Environmental Protection Agency, criticizing EPA for ignoring the U.S. Supreme Court's stay of the agency's proposed carbon emissions regulations (the so-called "Clean Power Plan").

In February, after Montana and other states challenged the EPA's carbon regulations, the U.S. Supreme Court issued an injunction until legal challenges have concluded. Despite an explicit order from the court, EPA has chosen to move forward with the rulemaking process for a regulatory scheme known as the Clean Energy Incentive Program (CEIP), a component of the larger plan. EPA's action is in direct violation of the Supreme Court's stay.

"By moving forward with this rulemaking, EPA has ignored explicit instruction from the court, throwing years of well-established case law out the window," Fox said. "It's unacceptable for the EPA to flout the rule of law and treat our nation's highest court in this manner, and for the sake of preserving the integrity of the institution, I encourage the agency officials to rethink their actions."

The Clean Energy Incentive Program is a regulatory mechanism used to create an artificial incentive for renewable energy development across the country by providing emission reduction credits that count toward states' carbon reduction goals. The CEIP is one component of the larger carbon emission regulation proposal, however, its existence is dependent on the full regulation being upheld in court. The EPA cannot adopt a regulation to implement another regulation that has been stayed by the federal court.

In representing EPA before the court, the U.S. Solicitor General argued that the Supreme Court's stay would require EPA to halt any further rulemaking action, stating "implementation of each sequential step mandated by the Rule would be substantially delayed" if the carbon regulations were stayed but ultimately upheld.

The Montana Public Service Commission also signed on to the comments. Speaking to EPA's decision to move forward with the rulemaking, Montana PSC Chairman Brad Johnson said, "The EPA's decision to proceed with rulemaking for the Clean Energy Incentive Plan (CEIP) in light of the Supreme Court's stay of the carbon regulations is another stark example of the administration's high-handed disregard for the rule of law. I am extremely pleased that the PSC voted to pass my

motion to join with Attorney General Fox in pushing back against the EPA's abuse of its rulemaking authority."

EPA accepted comments on the proposed rulemaking for the CEIP until November 1, 2016.

AG Balderas Announces $32 Million Judgment against FastBucks to Benefit New Mexico Consumers

Santa Fe, NM – This morning, Attorney General Hector Balderas announced that a district court judge ruled New Mexicans should receive upwards of $32 million from FastBucks for their unfair and unconscionable business practices. First Judicial District Judge Francis J. Mathew ruled that FastBucks should pay the sum of $32,255,054.00 in restitution to the consumer borrowers who were taken advantage of by FastBucks' business practices. The suit was brought by the Office of the Attorney General for violations of New Mexico law. This judgment is the conclusion of the damages phase of the litigation. The initial decision deciding FastBucks had, in fact, violated New Mexico law was entered in 2012.

"This $32 million restitution judgment for New Mexico consumers is a great step toward eliminating predatory business practices that prey on New Mexico families," said Attorney General Balderas. "Our office is working expeditiously on a plan for New Mexico consumers to receive their restitution, however we are asking for consumers' patience as we work through the legal process to get them what they are owed."

The Court found that after the enactment of the 2007 legislative reforms to address payday loans, the company fashioned their loans and business practices so as to circumvent regulation of payday loans. These business practices avoided many of the benefits to borrowers that would have otherwise been available.

Consumers who believe they were impacted by these predatory business practices should contact the Office of the Attorney General Consumer and Environmental Protection Division toll free at 1-844-255-9210.

Denver Man Sentenced to 24 Years in Prison for Sophisticated Fraud Scheme

DENVER —Colorado Attorney General Cynthia H. Coffman announced today that Jose Ricardo Sarabia-Martinez, of Denver was sentenced to 24 years in prison after being found guilty of multiple counts including felony violations of the Colorado Organized Crime Control Act (COCCA), COCCA-Conspiracy, forgery, theft, and criminal impersonation. Sarabia-Martinez is expected to also be ordered to pay restitution of nearly $1million.

"Mr. Sarabia-Martinez was the mastermind of a fraudulent scheme that stole millions of dollars from his victims," said Attorney General Coffman. "This lengthy sentence will keep him off the streets and prevent him from harming any other innocent people."

Sarabia-Martinez, along with his fellow co-conspirators used their status as professionals in the real estate industry to execute a long-term diverse fraud for profit scheme. The scheme primarily centered on mortgage fraud including the manipulation of multiple real estate transactions through the use of fraudulent statements, material omissions, acquiring false identification and notary commissions, as well using "straw buyers" to buy and sell real estate properties that ultimately resulted in foreseeable foreclosures.

When these straw buyers' properties were foreclosed, Sarabia-Martinez and his partners had already been able to fraudulently acquire money through fees, commissions, and by diverting the excess profit that was obtained from facilitating these fraudulent loans from the deceived lenders. The criminal activity took place in various jurisdictions, including the City and County of Denver, Adams County and Arapahoe County. The investigation and successful prosecution of this case resulted from collaboration between several state and federal agencies including the Colorado Bureau of Investigation, the U.S. Small Business Administration, Office of Inspector General, the Federal Bureau of Investigation and the Federal Housing Finance Agency, Office of Inspector General.

"The exceptional collaboration between our state and federal partners made a tremendous difference in this case by helping to bring some justice to those impacted by this pervasive crime and preventing additional victims from being targeted by Mr. Sarabia-Martinez in the future," said CBI Director Mike Rankin.

In addition to Sarabia-Martinez, five other co-conspirators have pled guilty to various charges related to the scheme, including his then wife, mother, father and brothers.

Sarabia-Martinez was previously convicted of felony offenses related to domestic violence, for which he also received a 24-year sentence. Both 24-year sentences will run consecutively, for a total of 48 years in prison.