

ARTICLES FOR 7-14-16 ROUNDUP

Former Sen. Phil Griego charged with nine crimes

By Deborah Baker / Journal Staff Writer

SANTA FE – Attorney General Hector Balderas on Monday filed a criminal complaint against former state Sen. Phil Griego alleging that he used his position as a legislator to make money in a real estate deal, never disclosed it and defrauded a couple of business associates.

Griego was charged in a complaint filed in state District Court in Santa Fe with nine crimes, including bribery, fraud, perjury, tampering with public records, and violating ethical principles of public service and financial disclosure requirements.

Griego, a Democrat from San Miguel County, resigned abruptly during the legislative session in March 2015 rather than face possible disciplinary action over the 2014 real estate deal involving the sale of a historic state-owned building to a private buyer.

The sale had to be approved by the Legislature. Griego didn't disclose any interest in the property sale when lawmakers were voting on it, but later received a \$50,000 broker's fee for monitoring the sale proceedings.

The AG began a criminal investigation about a month after Griego resigned.

A statement from James Hallinan, a spokesman for Balderas, said the complaint alleges Griego "used his role as a legislator to receive personal compensation, which he then failed to disclose in filings required of legislators."

Griego did not immediately respond to a telephone message left by the Journal .

His lawyer, Diego Zamora, said he had not yet seen the complaint and couldn't provide a comment.

Griego has previously defended his involvement in the deal, saying he didn't feel there were any ethical problems with his actions.

According to the complaint, Griego agreed in September 2013 to help Galisteo Street Inc. buy the historic office building it was leasing from the state. The building, near the Capitol, is across from a high-end hotel owned by GSI.

Griego, as GSI's agent, shepherded the sale through the legislative process and subsequent review by the Capitol Buildings Planning Commission, but did not tell anyone associated with the state of his interest in the sale, the AG said.

The complaint says Griego "stood silent ... as inaccurate and incomplete information regarding the lease and sale were discussed on the Senate floor."

Lawmakers were told in a Senate committee and in floor debate that the Energy, Minerals and Natural Resources Department wanted to sell the building because it was costing more to maintain than the lease was worth.

They were never told that GSI was responsible for maintenance costs under its lease, nor that GSI was already lined up as a buyer, the complaint said.

Griego stepped outside the chamber when the Senate vote was taken, according to the AG.

“Griego’s abrupt departure from the vote is an early indicator to this agent that Griego knew he had a conflicting interest in the vote while he was functioning as a legislator, but hoped not voting on the measure would alleviate that conflict,” wrote Mark Pinto, special agent with the Office of the Attorney General.

Griego was working as an associate broker and therefore was required to affiliate with a qualifying broker to engage in real estate brokerage business.

But the criminal complaint says he hid the transaction from his qualifying broker, John J. Mahoney – depriving Mahoney of an agreed-on 20 percent share of his commission. He then misrepresented the transaction to the qualifying broker he subsequently sought out, Phillip J. Garcia, and gave him less than was agreed to – 5 percent instead of 20 percent – the complaint said.

Griego did not report the commission he received in June 2014 on his 2015 financial statement, which covered the year 2014, according to the complaint. Nor did he report it in September 2014, when he amended a previously filed report with other new information.

Griego, who represented Senate District 39 from 1997 until he resigned in 2015, spent \$6,500 from his campaign funds last year after his resignation.

He told the Secretary of State in January the spending actually qualified him as a candidate for his old Senate seat and was therefore allowable. Although he had previously said it was unlikely he would run again, he said in January that he was still mulling over his options.

Attorney General’s Office Announces Human Trafficking Arrests

Over 70 arrests, including for child sex exploitation and human trafficking of minors

SALT LAKE CITY July 13, 2016 – In cooperation with local and national law enforcement agencies today, the Utah Attorney General’s Office announced in a press conference a multi-month investigation that resulted in the arrests of a number of individuals on human trafficking and child sex exploitation charges. The arrests are related to cases where victims of human trafficking were trafficked inside Utah. Some cases involved minors and some crossed state lines. Several of the Utah child sexual exploitation arrests are related to a nationwide operation known as Operation Broken Heart III, which involved the 61 ICAC Task Forces across the nation.

As part of Operation Broken Heart III, 1,368 arrests were made nationwide; 71 of those arrests came from Utah. Additionally, as an educational component of the operation, 2,300 community presentations were made nationwide, 194 of which were given in Utah.

Attorney General Kamala D. Harris Announces \$168.5 Million Settlement with K1Attorney General

Agreement reached over alleged violations of California’s false claims, false advertising and unfair business practices laws

LOS ANGELES - Attorney General Kamala D. Harris today announced that the Bureau of Children's Justice and False Claims Unit of the California Department of Justice has reached a settlement agreement with K12 Inc., a for-profit online charter school operator, and the 14 affiliated non-profit schools known as the California Virtual Academies ("CAVA Schools") that it manages, over alleged violations of California's false claims, false advertising and unfair competition laws.

As part of the settlement, which is subject to court approval, K12 will provide approximately \$160 million in debt relief to the non-profit schools it manages—"balanced budget credits" that were accrued by the schools as a result of the fee structure K12 used in its contracts—and will pay \$8.5 million in settlement of all claims. In addition, K12 has agreed to implement significant reforms of its contracts with the CAVA Schools, undergo independent reviews of its services for students with disabilities, ensure accuracy of all advertisements, provide teachers with sufficient information and training to prevent improper claiming of attendance dollars, and change policies and practices to prevent the kinds of conduct that led to this investigation and agreement.

This is the first settlement by the new Bureau of Children's Justice, a first-of-its-kind unit created by Attorney General Harris in February 2015 to enforce civil and criminal laws that protect children and to pursue solutions that help ensure all children are on track to realize their full potential. The Bureau partnered with the False Claims Unit to investigate this matter, in which K12 and the CAVA Schools were cooperative. The Attorney General's office recently disclosed five additional active investigations by the Bureau of Children's Justice addressing education, juvenile justice, and the child welfare system: www.oag.ca.gov/bcj/investigations.

"All children deserve, and are entitled under the law, to an equal education," said Attorney General Harris. "K12 and its schools misled parents and the State of California by claiming taxpayer dollars for questionable student attendance, misstating student success and parent satisfaction, and loading nonprofit charities with debt. As my office continues an industry-wide examination of for-profit academic institutions, this settlement ensures K12 and its schools are held accountable and make much-needed improvements."

The Attorney General's Office alleged that K12 and the CAVA Schools it operates in California misled parents to induce them to enroll their children in K12 schools by publishing misleading advertisements about students' academic progress, parent satisfaction, their graduates' eligibility for University of California and California State University admission, class sizes, the individualized and flexible nature of their instruction, hidden costs, and the quality of the materials provided to students.

In addition, the Attorney General's office alleged that K12 and its affiliated schools submitted inflated student attendance numbers and collected more dollars in state funding from the California Department of Education than they were entitled to. According to a whistle blower, K12 allegedly counted logging on for as little as one minute as a full day of attendance, wasting taxpayer dollars and harming students by depriving them of a full day of high-quality academic instruction.

Finally, the Attorney General's office alleged that K12 and its employees influenced nonprofit online charter schools to enter into unfavorable contracts that put them deep in a financial hole. The agreement ensures that K12 and the CAVA Schools refocus on the need to deliver quality educational services and that they do so with appropriate controls between the for-profit vendor and nonprofit schools.

A recent study showed that students in virtual schools that exist solely online are far behind their peers in math and reading. In addition, reports show that the CAVA Schools collectively had a graduation rate of 36%, compared to the state average of 78%.

K12 Inc. is based in Virginia and is a for-profit, publicly traded company. The 14 non-profit virtual charter schools it manages throughout California enroll approximately 13,000 K-12 students.

Ensuring that all students receive full days of academic instruction is part of Attorney General Harris's innovative "smart on crime" approach to criminal justice, in which the Attorney General's office has commissioned research into elementary school truancy and chronic absenteeism and the connections between school attendance and interactions with the criminal justice system later in life. Reports from the past three years and additional materials are available online at <https://oag.ca.gov/truancy>.

ATTORNEY GENERAL LAXALT SUES SUBSIDIARY INSURANCE COMPANY OF AIG FOR BREACH OF CONTRACT AND BAD FAITH FOR ITS REFUSAL TO PAY CLAIM TO STATE OF NEVADA

Carson City, NV - Today, Nevada Attorney General Adam Paul Laxalt announced the filing of a bad faith lawsuit against The Insurance Company of the State of Pennsylvania, a subsidiary of AIG. AIG is an insurance company that serves commercial, institutional and individual customers in more than 100 countries and jurisdictions. AG Laxalt's suit-filed on behalf of Nevada-claims that AIG's subsidiary unlawfully put its interests above those of the State by admitting that coverage potentially existed, but denying it anyway through one-sided, and incorrect, interpretations of policy exceptions.

In 2013, the City and County of San Francisco filed a class action lawsuit alleging that individuals discharged from the Rawson-Neal Psychiatric Hospital received transportation subsidies enabling them to travel to cities in California, including San Francisco. Nevada denied all claims in that lawsuit, but eventually settled the matter after determining that-even if Nevada succeeded on all counts-simply defending the lawsuit would cost more than settling. Although Nevada submitted this claim to AIG's subsidiary, the insurance company refused to defend Nevada and now refuses to reimburse the State.

"People know that some insurance companies do everything they can to avoid paying valid claims," said Laxalt. "Even so, I find it incredible that a company owned by AIG-a recipient of billions of dollars in taxpayer bailout funds-would attempt to side-step its obligations to the State. After years of receiving millions of dollars in policy premiums, AIG refuses to uphold its end of the bargain. Today, my Office brings this bad faith lawsuit not only on behalf of the State of Nevada, but also for every Nevadan who has ever been stiffed by an insurance company."

The complaint explains that the insurance company promised it would defend Nevada against any claim or suit even if such claim or suit was groundless, false or fraudulent. The complaint also details how Nevada complied with all policy provisions and timely paid more than \$5.4 million in insurance premiums for the last 13 years. AIG has never paid a claim on this policy. As a result, Nevada seeks all damages caused by the insurance company's actions, including punitive damages and attorney's fees for breach of contract, bad faith, unfair claims practices and declaratory relief.

Steven Shevorski, Head of Complex Litigation, and Deputy Attorney General Donald Bordelove are representing Nevada in this matter.

West Virginia Attorney General On Fantasy Sports: State ‘Does Not Prohibit’ Contests

Dustin Gouker, July 11, 2016 13:40 PDT@DustinGouker

West Virginia’s attorney general declared that state law does not prohibit paid-entry fantasy sports, but stopped short of saying that all contests would be legal in the state.

The attorney general also said that paid-entry fantasy sports, generally speaking, are “not decided predominantly by chance.”

Why the WV AG weighed in on DFS

West Virginia Attorney General Patrick Morrissey was responding to a request for a legal opinion regarding DFS from Senate President William Cole. It was requested in light of the introduction of a bill to legalize DFS, S 529.

That bill passed the Senate, 18-16, in February. It was not taken up by the House of Delegates and did not become law.

But the AG just released his opinion, which diverged from AG opinions in a number of states flat out declaring that paid-entry fantasy contests are either legal or illegal vis a vis state law.

What the AG says on DFS

Here is the crux of the opinion:

We conclude that West Virginia does not prohibit the offering of or participation in fantasy sports games, as they are defined in Senate Bill 529. We read state law to prohibit only betting upon games decided at least predominantly by chance.

Fantasy sports games, as defined in the Senate Bill, are not so decided.

The main takeaway is not terribly wide-ranging. In essence, the AG is punting on DFS legality in general, and saying “it depends” on the specific contest being considered.

However, the opinion does note that fantasy sports are “not wholly or predominantly decided by chance,” at least defined by the Senate bill:

But you have not asked, and we do not answer, whether a court would find that a particular fantasy sports game falls within the definition in Senate Bill 529. The answer to that question would turn on the specific rules of a particular fantasy sports game, and possibly other factual information that you have not provided.

Nevertheless, we do note that fantasy sports games, as we have described them in the background discussion above, are likely not decided predominantly by chance.

That would seem to imply that West Virginia’s AG would find salary-cap-style games — like the ones offered by DraftKings and FanDuel — are legal in the state.

Other takeaways from the WV opinion

The application of the WV opinion is fairly limited, but it does offer these caveats:

Sports betting a game of skill, too?

The West Virginia opinion notes that sports betting is also a game of skill, under state law:

We thus echo a previous attorney general, who opined that betting on sports is not something predominantly determined by chance, but rather by skill.

West Virginia should still clarify legality

Despite the opinion, the AG says the statehouse should probably tackle legislation regarding DFS:

As with any novel question of law, though, the best course of action may be for the Legislature to pass a law that speaks directly to the lawfulness of fantasy sports. Few jurisdictions have found DFS to be clearly legal under state law — Rhode Island and Massachusetts have. But the West Virginia opinion goes on to say that its finding is not at odds with other states that have declared DFS to be illegal gambling:

Those state attorneys general who have found their state laws to prohibit only betting upon games decided predominantly by chance, as we have determined about West Virginia law, have similarly found pay-to-play fantasy sports games to be lawful in their states.

In contrast, in those states where fantasy sports games have been found unlawful, the state attorneys general have found state gambling laws to apply more broadly than in West Virginia, prohibiting betting in many more games than simply those where chance predominates.

The opinion did not come out before another state issued its opinion, however.

When it rains, it pours for AG opinions

After some silence on the legality of DFS, this is the second AG opinion to surface in the past week. Delaware's AG determined that paid-entry fantasy sports constitutes illegal gambling under that state's law.

Interestingly, the Delaware Department of Justice said chance is a dominant factor in DFS contests, which appears to be at odds with the West Virginia finding.

Relying on the Delaware Constitution, as well as State and Federal case law, DOJ attorneys determined that online fantasy contests that involve payment for playing and monetary rewards constitute gambling because chance, as opposed to skill, is the dominant factor in the outcome of these contests.

Not at odds with other jurisdictions

While Delaware did little to back up that stance and did not offer a formal opinion, West Virginia obviously took a very close look at paid-entry fantasy sports contests, with nearly 40 footnotes in a 14-page opinion.

DraftKings statement

DraftKings offered the following statement in the wake of the AG opinion coming out:

“DraftKings is pleased with the opinion of Attorney General Patrick Morrissey that daily fantasy sports are games of skill and lawful in the state. The opinion is also welcomed by tens of thousands of daily fantasy sports fans in West Virginia who enjoy the fun and excitement of our

competitive games. We look forward to continuing our cooperation with elected leaders and state officials to ensure the best experience possible for our players.”

Vermont Leads Settles Campaign Finance Law Matter

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A Vermont non-profit corporation formed in 2012 to provide public education about single-payer healthcare and its political committee have acknowledged violations arising out of their campaign activities in the 2012 and 2014 election cycles, according to Vermont Attorney General Bill Sorrell. Vermont Leads, Inc. and an independent expenditure-only PAC that it created, Vermont Leads PAC, will pay civil penalties totaling \$3,000.

Vermont Leads Inc. created the Vermont Leads PAC in 2012 to advocate for the election of candidates who supported the single-payer health plan. In its closing report filed with the Secretary of State after the 2012 election, the PAC stated that it had ceased operations and transferred all remaining funds to Vermont Leads, Inc. The PAC then filed a campaign finance report in September 2014 that contradicted its 2012 report. The report disclosed it had actually carried over \$11,172 from the 2012 campaign and made advertising expenditures in August 2014 to support a Vermont Senate candidate.

Within a week of being notified by the Attorney General’s Office of these apparent contradictions, Vermont Leads PAC filed five corrected or missing campaign finance reports and has acknowledged that its failure to file accurate and timely campaign finance reports violated Vermont’s campaign finance law. Vermont Leads PAC will pay a civil penalty of \$1,000 to the State of Vermont.

In addition, Vermont Leads Inc. will pay a penalty of \$2,000 for accepting one contribution in excess of \$4,000 from a single source in March 2014 and subsequently making direct contributions to candidates running for Vermont office. Because of these activities, Vermont Leads, Inc. met the definition of a “political committee” and was therefore subject to the registration, reporting and other requirements of Vermont’s campaign finance laws. Vermont Leads, Inc. violated these laws when it failed to register as a political committee and accepted a contribution that exceeded the \$4,000 allowable limit.

“As we get deeper into the 2016 election cycle, this settlement should serve as a reminder to entities that accept contributions or make expenditures supporting or opposing a candidate that such conduct can trigger application of Vermont’s campaign finance laws,” said Sorrell. “All entities that qualify as PACs should take care to abide by our campaign finance laws.” Vermont’s campaign finance laws and the Secretary of State’s guidance document can be found on the Secretary of State’s website.

GUARD YOUR CREDIT FOLLOWING WENDY’S BREACH, AG COOPER URGES

Wendy’s franchises affected in at least nine North Carolina cities

Raleigh: In the wake of a malware data breach that affected more than 1,000 Wendy’s fast food restaurants nationwide, consumers should take action to avoid identity theft, Attorney General Roy Cooper said today.

“If your personal information could have been compromised as a result of this data breach, don’t delay in taking steps to protect your accounts and lock down your credit,” Cooper said. “Be wary of scammers who may try to take advantage of the breach.”

So far, Cooper’s office has been notified that the data breach has compromised information from Wendy’s franchises in the following locations: Cashiers, Cherokee, Clinton, Fayetteville, Hope Mills, Lumberton, Murphy, Siler City and Warsaw. Consumers are encouraged to continue checking the Wendy’s website for updates on other locations potentially affected by the breach.

Wendy’s first alerted consumers of unusual card activity in February and June of this year. In a news release issued last week, the company announced that a malware variant may have exposed customers’ payment card data, cardholder names, credit or debit card numbers, expiration dates, cardholder verification values and service codes. Consumers who have visited a Wendy’s in one of the impacted locations and used a payment card should notify their payment card provider of the incident and consider requesting a new card.

Cooper also recommends that consumers who think they may have been affected take the following steps immediately:

Check your credit reports. Criminals who have personal information can use it to take out credit cards or loans and run up debts in your name. Under federal law, you are entitled to one free credit report each year from all three major credit bureaus.

Use services offered to victims. Wendy’s announced that it will provide one year of free credit monitoring and identity protection to anyone impacted by the data breach.

Request a fraud alert from one of the three major credit bureaus, which can protect your bank and credit accounts for up to 90 days.

Consider a security freeze for your credit reports to prevent criminals from opening up new accounts or lines of credit. North Carolina consumers can get a free security freeze online.

Report suspicious activity. If you spot a charge, payment, loan, or line of credit you don’t recognize on your credit report, contact local law enforcement immediately.

Watch out for follow up scams that may try to trick possible breach victims into providing additional personal information, such as phishing emails and phony websites.

North Carolina law requires businesses to notify consumers if their personal information has been breached. They are also required to report security breaches to the Attorney General’s Office. Since 2005, almost 3,500 breaches that involved information about more than 9.3 million North Carolina consumers have been reported to the Attorney General’s Office.

“Cyberattacks and breaches are taking place more frequently thanks to technology,” Cooper warned. “Consumers need to be vigilant about monitoring their accounts and report any suspicious activity as quickly as possible.”

For more information on security breaches and additional steps consumers can take to protect themselves, visit our website at ncdoj.gov or contact our Consumer Protection Division by calling 1-877-5-NO-SCAM toll-free within North Carolina.