

NEWS RELEASE

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HIDDEN AGREEMENT WITH NORTH DAKOTA ATTORNEY GENERAL WAYNE STENEHJEM AND GAMBLER PETER WAGNER REVEALED -- FEDERAL JUDGE DENIES STATE AND RULES IN FAVOR OF SUSAN BALA

In a strongly worded twenty-nine-page ruling entered on April 23, 2021, Federal Judge Thad Collins denied Attorney General Wayne Stenehjem's claim as without merit and addressed a hidden agreement revealed in court between North Dakota Attorney General, Wayne Stenehjem and Las Vegas gambler, Peter Wagner. The Court deemed the agreement a seeming violation of North Dakota law and invalid on its face.

The ruling denied the State of North Dakota and again ruled in favor of Susan Bala on behalf of her company, Racing Services, Inc. ("RSI"). The Judge's order detailed a path of questionable conduct and claims by both Attorney General Stenehjem and Wagner, a Las Vegas based computer gambler, who teamed up, in this latest attempt, after both had been denied claims to RSI's funds by multiple courts.

The ruling enables the Trustee to proceed to finalize the RSI estate and to return the company to Ms. Bala, its sole shareholder. At dispute has been the multimillion dollar return of funds made in by the State of North Dakota to RSI in 2018 totaling \$15,872,000 after the State was found to have been illegally taxing the company.

After losing the case, the State of North Dakota entered into a Settlement Agreement with RSI in 2017. The Agreement was approved by both the Federal Court and the State legislature. The State of North Dakota then wired the settlement amount of \$15,872,000 to the RSI estate on January 2, 2018. Immediately thereafter, Las Vegas gambler, Peter Wagner (known as "PWE") made a claim for the money, which he subsequently lost in the Court's final 99-page ruling on November 28, 2019.

In December 2019, within weeks of Peter Wagner's November loss for his claim for the money, Attorney General, Wayne Stenehjem, working in concert with the

gambler, filed a “friend of the court” Amicus Brief in Federal District Court to support the gambler’s appeal to get the money from RSI, and at the same time filed an ill-conceived “new claim” in an attempt to claw back the money and split the proceeds 50/50 with the gambler, a fact that only came to light under direct questioning by the Judge during the trial for the “new claim”.

The questionable agreement with gambler, Peter Wagner was not disclosed to either the Federal Bankruptcy Court nor to the Federal District Court, or any of the other parties for more than five months. The Court’s April 23rd ruling recounts opportunities given to Wagner and the Attorney General to explain the motives for their joint filings of a “new claim” by the State supported by Wagner, together with the Amicus Brief filed by the Attorney General supporting the gambler’s appeal for the same money, which were simultaneously pending before two Federal Courts. Pre-trial, the Judge questioned them and “*expressed doubt*” with the explanation given.

The Court’s ruling states: *“PWE [Peter Wagner] – previously having no interest in the State’s claim or any other parties’ claims – suddenly came rushing in to the State with rationale supporting the State’s [new] claim. The Court inquired as why PWE should be heard. PWE’s response was that it might be advantageous to PWE in its appeal of the 99-page ruling [denying Wagner] in Racing Services 595 B.R. 334 (Bankr. D.N.D. 2018. This Court expressed doubt.”*

The Attorney General then failed to answer lawyer’s discovery requests made by the Trustee and Bala in preparation for the hearing. The hearing for the State’s “new claim” commenced on May 30, 2019. The only witness the State presented to support its “new” claim was Peter Wagner’s own lawyer, Martin Foley, a practicing attorney in California. Bala’s attorney questioned Foley under oath on the witness stand and was met with deflection when Foley refused to answer certain questions.

Ultimately, the existence of the Attorney General’s deal to split the money with Wagner was only discovered later during the same hearing when the Judge himself took up the examination. Under direct questioning by the Judge, the Assistant Attorney General for the State admitted to their hidden arrangement to split the money 50/50, which contradicted all previous explanations given to the Court and

the briefs filed by the Attorney General, conflicted with North Dakota law Stenehjem himself was arguing, and it violated the legal requirement for filing his Amicus Brief before the Federal court, which is that the party filing must have no financial interest in the outcome of the appeal; information that had been withheld from both Federal courts and all other parties.

The Court's ruling states: *"At the hearing in Fargo, attempting to carry the leading oar for the State, PWE [Peter Wagner] had Mr. Foley – the lead attorney for PWE through 14 years of the case, and the lawyer suing the State for millions -- suddenly take the stand as the star witness for the State's [new]claim. Mr. Foley would not answer questions on the stand about his bias as a witness, asserting from the stand that his bias was protected from examination by some form of "attorney-client" privilege....". It was eventually disclosed later in the hearing that the parties [Wagner and the Attorney General] had agreed to split the recovery 50/50..."*

After being exposed in court during the May 30th hearing, Attorney General Stenehjem withdrew his "friend of the court" Amicus Brief from the Federal District Court on June 20, 2019. Stenehjem had filed the Amicus Brief to aid and support Wagner's appeal of the Federal Bankruptcy Court's denial of the gambler's claim for the money. The supporting brief for Wagner was filed by the Attorney General knowingly and improperly due to the fact Stenehjem had a pre-arranged financial interest in Wagner's appeal; a glaring fact that the existence of the deal was withheld from the courts and all other parties.

The Court spoke plainly given the only witness the State had presented for its contradicted position and confusing "new claim" was the gambler's lawyer, Martin Foley, who had no direct knowledge to support the claim.

The Court found Foley, *"not credible"* in its denial of the State stating that Foley, *"..was used in an attempt to assist...the State's shaky presentation of its case."* And, that the State, *"... had failed entirely to meet its burden of proof.."* The Court further stated it, *"...specifically finds his [Foley's] testimony to be not credible"*.

The Court questioned the *"partnership"* between Attorney General Stenehjem and the gambler and the legality of their agreement stating:

“Under the State’s own argument, its ‘joint prosecution’ agreement with PWE seems to violate North Dakota law or is invalid on its face”.

In the twenty-nine-page ruling, the Court detailed the 17 years of court proceedings related to RSI, the licensed service provider for North Dakota and the company that for more than 15 years led the building of the North Dakota horseracing industry and the building of its Fargo racetrack until the protracted litigation with the government erupted in 2003.

The Court ruled against each element of the “new claim” filed by the Attorney General. The “new claim” was made 14 years into the case after the Court’s November 28, 2019 denial of gambler, Peter Wagner’s attempt to claim the money, and after the U.S. Eighth Circuit Court of Appeals, the Federal District Court and the Federal Bankruptcy Court had all ruled in Bala’s favor; and, significantly, after Attorney General Stenehjem had already signed the 2017 Settlement Agreement with RSI, which was approved by both the Court and the State of North Dakota Legislature.

The Court’s April 23, 2021 ruling denied the State’s “new claim” on its lack of merit calling it “*unexplainable*” under the law. The Court also found the State’s attempts to restart the process with shifting positions in serial claims to be an “*abuse*” and “*absurdity of process*” further stating:

“This Court thus proceeds under that authority [Federal statute] to manage what has become a runaway process. Considering those concepts, the Court finds the State’s attempt to modify its claim after the evidence was closed and after remand are out of order, unfairly prejudice Bala, and are a part of a runaway process that must stop.... “Enough is enough”.

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For questions please call (800) 913-1049.

For direct links to the Court’s Order and the ND Attorney General’s Withdrawal of his Amicus Brief please see www.racingservicesinfo.com.