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2011 TM-WSTR 20

Specific Industry Credits

District Judge Sentences Former Head Of Iowa Film Office to Two Years' Probation

By Mark Wolski

ST. PAUL, Minn.—A Polk County, Iowa, District Court judge sentenced the former director of the Iowa Film Office to two years' probation for his efforts to secure tax credits for a film company between 2008 and 2009. [*Iowa v. Wheeler*, Iowa Dist. Ct., No. CR-FECR-243355, 10/18/11]

Judge Douglas Staskal sentenced Thomas Dean Wheeler to a deferred judgment, including probation and a \$750 civil penalty, for one count of felonious misconduct in office. Under a deferred judgment, the conviction can be stricken from Wheeler's criminal record if he successfully completes probation.

Felonious misconduct in office is a Class D felony in Iowa, and Wheeler could have been sentenced to up to five years in prison and a fine of no less than \$750 and no more than \$7,500. The Iowa Attorney General's Office had sought an indeterminate sentence of up to five years in prison.

Thomas H. Miller, deputy attorney general who prosecuted the case against Wheeler, said in a statement that his office respected the court's decision.

Film Office Shut Down

The state shut down the Iowa Film Office and its tax credit program in 2009 after allegations that credits were being awarded erroneously. The state auditor issued a report the following year that contended nearly \$26 million of \$32 million in tax credits awarded by the office had been improperly awarded.

The Iowa General Assembly in 2007 had expanded the film tax credit program in the hope of luring more film productions to the state. To that end, it passed legislation that allowed the film office to offer credits equal to 25 percent of certain production expenses paid to Iowans or Iowa-based companies, as well as credits equal to 25 percent of other production costs even if the costs were not incurred in the state. No film production could qualify for both credits, however.

When the state filed nine criminal charges against Wheeler, including fraudulent practices, felonious misconduct in office, and conspiracy, it was alleged that he had improperly awarded credits equal to 50 percent of film production costs.

Eric Tabor, chief of staff for Attorney General Thomas J. Miller (D), told BNA previously that the charge of felonious misconduct in office was for falsifying at least one public record or for delivering a falsified document with the knowledge it was false.

Angela Campbell of Dickey & Campbell of Des Moines, Iowa, attorneys for Wheeler, said she had asked the court to sentence Wheeler to a deferred judgment, the lowest sentence that could be made given the crime. As such, she said, she was pleased with the court's ruling.

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She noted that Wheeler will be required to pay the civil penalty, regardless of whether he completes his probation.

For a discussion of film tax credits in Iowa, see 1460-2nd T.M., Credits and Incentives:Idaho Through Mississippi, at 1460.09.F.