

Opinion Editorial

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Business Friendly vs. Fraud Friendly Protecting the Balance

There has been much talk lately about business fraud in Wyoming. A recent article seemed to neglect the fact that Wyoming is the state that stepped up to take on business fraud in the first place. It was Wyoming who acknowledged some misuses of businesses. It was Wyoming who had a white collar crime team and wanted to help law enforcement agencies obtain information about who these lawbreakers were. It was Wyoming who worked to pass legislation to require companies to make information about their key players available to law enforcement. And it was Wyoming who said that is not enough; you must also have a “face of the company”, a human being, in Wyoming who can be contacted to obtain the required information. If you don't do these things you can be sanctioned and if you intentionally file false information it's a felony.

That new law which passed in 2009 through the work of the Wyoming Secretary of State's Office and the Legislative Joint Corporations Committee, and supported by key individuals who knew about federal law enforcement, put the squeeze on thousands of “paper only” companies. During the first year the law went into effect, over 4,000 companies were dissolved or revoked. Were all of those unscrupulous? Probably not. Some may have just let their company go because the new requirements made it not worth holding on to their company. We have to be cautious because more government regulation can take out some potentially good businesses with the bad. Far from being lax, Wyoming's law is one of the first to address this issue. And, as an aside, might I say that Wyoming was such a leader in this move against business fraud that Wyoming was invited to present to the U.S. Department of Treasury and the U.S. Department of Justice; and then was invited to present at a training session for federal agents.

So why is Wyoming in the spotlight? I believe there are two reasons.

First of all, Wyoming is a great place for business. We have progressive business laws. Our taxes are very low. The fees to form a company are very low and the bureaucracy is less; it takes less time to form a company here than in many states. The same good customer service that is incredibly attractive to good companies is also attractive to those who intend to use their company for bad. Crooks are not necessarily unintelligent; they know it is cheaper and quicker to form companies here. So Wyoming is attractive to riff raff as well as to good businesses. However, in America, the law must be equally applied to everyone so if we make business law more costly, strict and cumbersome for crooks, that means more costly, strict and cumbersome for everyone. When the laws were changed in 2009 there was great debate during the legislative process about the need to keep a balance between fighting fraud and not being too regulatory and oppressive to good businesses. That's an immensely tough one.

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There seems to be a misunderstanding about what is required of businesses in the United States and in Wyoming specifically. Each company is required to have a Registered Agent; someone who can be served with legal documents about a company. Registered Agents often work for many companies perhaps hundreds, just like a private accounting firm or a private attorney likely has hundreds of clients. Many companies all using one Registered Agent is not at all strange in and of itself. There are reputable Registered Agent Service companies in the United States and in Wyoming which serve thousands of companies. What makes the “little house on the prairie” odd is that immense research done by the reporting firm has turned up the “fact” that this particular Registered Agent seems to represent some companies that have incredibly unusual connections and problems. There also seems to be misunderstanding about the type of physical business structure. Is the fact that it was a single family house a violation? No, it is not any more unusual than a law firm which might buy an old house in a commercially zoned area and make law offices out of it. All that being said, do we think all the happenings by the companies represented by the Registered Agent at the “little house on the prairie” are okay and am I defending them? Definitely not. I’m furious that businesses are using Wyoming’s good name for bad. It’s the same anger and concern that prompted me to direct my office to assist in obtaining legislative changes in 2008 when the business fraud issue first came to my attention. I will work with the 2012 legislature to further strengthen Wyoming’s business laws. We want fraudulent businesses out of the Cowboy State.

I believe the second reason that Wyoming is coming under attack about its business laws has to do with timing. There is a move underway by some members of Congress, not the Wyoming delegation, to place more regulation on business. The Washington approach calls for a one size fits all, additional layer of bureaucracy. Filing more papers is not the answer. People “hell-bent” on business fraud will file false information. Those who think bad guys will fess up by filing a piece of paper listing the truth, are not living in reality. Wyoming has been outspoken about this proposed legislation. Heavy paperwork burdens are tough for small family and mom and pop businesses of which there are many in Wyoming. Somebody has to speak up for legitimate Wyoming businesses. There are some interests nationally who have not liked Wyoming speaking up. Further, in this economy, is now the time for more, and costly, regulation? I think not. Although, there are some bad actors in the business world, and indeed there are, the solution is not to hit good businesses with a regulatory sledge hammer. Wyoming has many wonderful business men and women and my job as Secretary of State is just as much to protect them as to make it hard for fraudulent companies. It is a challenging regulatory balance. Besides, legitimate businesses will provide legitimate information but does anyone think crooks will provide accurate information?

Do I, or anyone else, have the perfect solution to stopping all business fraud? Are you kidding me? If I did, we would be applying that theory to all crime in America. Can state government regulate to the point that businesses won't ever be used for bad; or that every company will provide all the services they advertised; or that the quality of work every company does will be satisfactory? Of course not! But we can tenaciously keep chipping away at serious business fraud. And the way we do so is to require businesses to have a person onsite to provide information about key players. That gives law enforcement something to go on. Could we do other things to drive out fraudulent companies? Sure,

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the unpalatable choice is to make it not profitable by increasing business taxes and fees, but that approach hurts legitimate Wyoming businesses. We are also trying to find ways to strengthen statutes even further without oppressing good businesses. Right now, we are letting law enforcement take these bad actors on one at a time, case by case.

Yes, it is tedious like all law enforcement work.

This issue is greater than one “little house on the prairie”; this is an enormous issue for the whole United States to grapple with; fraud and money laundering in an ever dangerous world versus businesses operating well to provide a solid economic basis for our country. Wyoming is just one player in this very, very complex design.

I want Wyomingites to know that I remain firmly against federal intrusion. This is a state issue. This is a difficult matter but I’m committed to eliminating fraud while remaining business friendly to legitimate businesses. I will continue to work against fraud. We will seek additional law changes if viable.

After seeing the recent news media, I just thought Wyomingites would like to know, as it’s been said – “the rest of the story.”

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