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CONTACT: Marge Teague
(505) 298-3662

In Case You Missed It

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By Richard Verrier
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Call it Iowa's field of nightmares.

The state famously depicted in Kevin Costner's 1989 baseball classic "Field of Dreams" has become mired in an ever-widening scandal over alleged abuses of its film tax credit program.

Last week, Iowa prosecutors bolstered their criminal case against Tom Wheeler, the state's former film chief, charging him with various felonies, including official misconduct over his handling of state film tax credits.

The corruption scandal, the largest of its kind in the country, is drawing nationwide attention as a prime example of how some state tax credit programs — especially those that lack financial controls — are vulnerable to abuse.

It comes as several cash-strapped states are scaling back their film incentive programs, which have been instrumental in luring production away from California. However, it's too early to say whether this retrenchment will keep more filming in California.

New Mexico's newly elected Republican governor, Susana Martinez, has called for slashing the state's tax credit as much as 40%, citing the state's budget priorities. Nick Paleologos, head of the Massachusetts Film Office, resigned last month in a cost-cutting move. Wisconsin stripped most of the funding for its film program in 2009 after a report by a state agency raised questions about money the state paid for "Public Enemies," the Universal Pictures gangster movie starring Johnny

Depp.

"If you don't have the checks and balances, film programs can get in trouble, and that's what happened in Iowa," said Peter Dekom, an entertainment industry attorney who helped craft New Mexico's program.

Wheeler was among six officials in Iowa fired or forced to quit over allegations they mismanaged the film tax credit program, which was suspended in 2009. Wheeler was arraigned Tuesday and pleaded not guilty to the charges.

In addition, state prosecutors have charged five independent filmmakers and a tax credit broker, with fraudulently obtaining state tax credits. Two have pleaded guilty to felony theft and are cooperating with authorities in the case against a former partner, producer Wendy Weiner Runge.

The Iowa debacle goes well beyond that of a bribery scandal in Louisiana in which a former top film office official was given a two-year prison sentence in 2009 for steering tax credits to a local producer.

Iowa rapidly expanded its film credit program in 2007, developing one of the most aggressive tax incentives in the country, one that was touted by the local film office as "half-priced" filmmaking. Producers of more than 150 projects applied for funding.

But former Gov. Chet Culver suspended the film program in 2009 after an internal audit found irregularities, including filmmakers using tax credit funds to purchase a Land Rover and other luxury vehicles for themselves.

The criminal charges followed a special audit the state conducted in October of 22 films that were awarded tax credits before the program was suspended. The audit found that \$26 million of nearly \$32 million in tax credits were awarded improperly, either because the productions did not qualify for the credits or producers did not submit required documentation.

Much of the audit focused on Wheeler, who was fired in September 2009, saying he "did not verify expenditures or ensure the expenditures claimed by the production companies met the requirements of the Code of Iowa."

Wheeler, charged with seven counts last week, has denied any wrongdoing. "I haven't seen any evidence to support these charges," said Iowa attorney Angela Campbell, who is representing Wheeler, in an interview.

The audit said the film office allowed filmmakers to rely on estimates of production costs, rather than actual expenses, and to count out-of-state salaries toward the tax credits. The investigation also said producers set up shell companies with local addresses that actually purchased goods and services from out of state.

Among the examples cited in the report: Cornfield Productions, producers of the mystery movie "Peacock," starring Ellen Page and Susan Sarandon, received \$3.2 million in tax credits for a film that had a \$9.5-million budget. The audit found that about \$4.6 million in expenditures from the 2010 release should not have qualified.

A producer of a Public Broadcasting Service horse training series applied \$2.18 million in expenditures that were paid to companies outside of Iowa, the audit said.

In another example, auditors said producers of a science fiction movie called "The Scientist" provided no proof of payment for nearly \$500,000 in expenses. The state attorney general has sued the producers for damages, including Runge, who faces various theft and fraud charges over tax credits.

"We're trying to secure assets that we believe were wrongfully obtained," said Iowa Deputy Atty. Gen. Jeffrey Thompson.

Runge's attorney, Matthew Whitaker of Des Moines, said the state is blaming filmmakers for the mismanagement of its film office.

"We maintain she did nothing wrong and was acting according to the guidelines," Whitaker said. "Everything she did was approved by the film commissioner. "

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