

Through the years, I have been privileged and blessed to know many colorful characters. One of those characters was Sid Tolin. It was the mid-1980s and Sid ran Casper Iron and Metal Works with legendary genius. Sid, may he rest in peace, bought and sold all kinds of metal, from copper and brass to scrap iron. His place offered all kinds of metal jewels for the true treasure seeker. Radiators and gas tanks for 1946 Kaiser and Hudson automobiles along with new metal and all sorts of oil-field iron could be found in his enormous junkyard.

One morning I was at the front office counter finalizing a deal for some baseplate steel. Two young men in their late 20s walked in and announced that they had a gooseneck trailer load of two-and-seven-eighth pipe they would like to sell. Sid walked out and had a look to verify it. Returning to the office counter, Sid asked if they had any more pipe to sell. They answered affirmatively that they could get their hands on two more loads. Sid offered a price and the agreement was consummated with a handshake. He instructed them to pull around back to the scale and someone would unload them.

After the two pipe peddlers had left the office, another gentleman who was standing nearby asked a question. "Sid, I saw those two up near Edgerton this morning loading that pipe. Didn't you buy that pipe from Amoco already?"

Sid, in a very matter-of-fact way, said, "Yeah, it's my pipe."

"Well, why are you buying your own pipe?" the man asked.

"Well, it's cheaper for me to buy it from them than it is for me to hire somebody to go up there and bring it back." Sid looked up from his ledger and smiled at me.

"So let me get this straight, Sid. You're buying your own pipe that these guys stole from you, right?" I asked as I chuckled out loud.

"Yeah, I am." Sid answered. "It's good business...right?"

Everyone in the office laughed out loud, especially when Sid said he wouldn't call the sheriff because he would need them to steal another stack of his pipe next week. That was Sid at his best, always in control, always aware of what was happening with his assets. Sid Tolin practiced responsible oversight, a characteristic once held in high esteem.

TALES FROM THE WASTELAND

National Theft

Thank the Equal Access to Justice Act.

By Barry Perryman, Ph.D.

Enter the federal government. The Equal Access to Justice Act (EAJA), signed into law in 1980, made it possible for individuals, retirees, veterans, and small businesses to recover attorney fees and court costs when prevailing in litigation against an action of the federal government. It was meant to mitigate a "David versus Goliath" situation in the courtroom. It was a great idea, and still is.

In 1995, through the Federal Reports Elimination and Sunset Act, Congress stopped the tracking and reporting of EAJA

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payments made to the attorneys of successful litigants. In 2011, with pressure from Rep. Cynthia Lummis and others, the Government Accountability Office (GAO) attempted to research payments authorized by EAJA since 1995 and discovered only 10 of 75 federal agencies had been keeping records. It seems almost no one had been paying attention, and a system of abuse was born.

Here is a typical example of EAJA abuse. In a brief filed on Oct. 30, 2009, attorneys for a small timber company petitioned the 9th U.S. Circuit Court of Appeals to not pay attorney fees billed by the environmental group Earthjustice which sought \$189,412 in fees for filing a single brief and oral argument. Earthjustice was certainly not an indi-

vidual, retiree, veteran, or small business, and clearly had assets far in excess of the statutory limit for receiving EAJA awards. According to the Natural Resource Report, at the time Earthjustice claimed \$35,922,744 in net assets, including offshore limited partnerships and corporate stocks, yet it had the audacity to bill taxpayers for attorney fees from \$500 to \$600 per hour, nearly three times the rate allowed under EAJA. In my opinion this amounts to sanctioned theft.

As best as anyone can determine, 3,300 lawsuits were filed by 12 environmental groups between 2000 and 2011, and \$37 million in attorney fees was awarded. Now keep in mind that these lawsuits are almost completely based on procedural aspects of the National Environmental Policy Act. In other words, you need to get a judge to agree that five scoping meetings should have been held instead of three or you cannot single-space an announcement in the Federal Register when it must be double-spaced.

This was all going on in secrecy. The 2012 GAO report for the period 2000 to 2010 concluded that in aggregate it was impossible to determine the total number of claims, the amount of payments, and who received them. With no House oversight for 17 years, it cannot be determined who or how much was paid! The situation is a little better now because in December 2015 the House unanimously passed the EAJA Transparency Bill and it awaits Senate approval. In the meantime, abuse and graft persist.

The effect of this abuse is broader than just the cost to taxpayers. The most egregious effect may be that ranchers and other small natural-resource-based businesses often have to spend their own money to defend BLM or Forest Service actions in court against these parasitic environmental groups. So, in effect, their own tax payments end up going to the very entities that are attempting to drive them out of business.

I get a little waspy just thinking about it. Wouldn't the world be a better place if we the people made sure we elected representatives who had the sense of purpose and business acumen of the one-and-only Sid Tolin? ■

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