

NEWS RELEASES

PUBLISHED: JANUARY 27, 2014

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Husch Blackwell Partner Mike Nolan Secures one of the Largest Reported Plaintiff Verdicts in 2013

Husch Blackwell and Partner Michael P. Nolan have been recognized for obtaining one of the largest reported plaintiff verdicts in the state of Missouri in 2013 involving a commercial dispute, according to *Missouri Lawyers Weekly*. On October 1, 2013, after a week-long trial in Saline County, Missouri, a jury returned a verdict in favor of Land Property Associates Inc. and Farm Properties for breach of contract and breach of fiduciary duty against their former partner, HLG Farms LLC, and against Kenneth B. Gray Jr., Meridith Gray, Doreen Gray, and Samuel Gawthrop for tortious interference with a contract. The Saline County jury assessed compensatory damages totaling approximately **\$1 million**, and punitive damages totaling **\$12.2 million**.

The genesis of the dispute arose in 2001, when Roy Fischer Jr. and Kenneth Gray formed a partnership, Loess Hills Farm LLLP, to invest in farmland. Fischer, of St. Louis, Mo., is president of Land Property Associates and managing partner of Farm Properties, which are owned by a small group of family and friends, all of whom are residents of St. Louis.

The investors in Land Property Associates and Farm Properties are Dr. Robert and Sandra Fischer, Davis Biggs Jr., Lorraine Spahr, Richard Asadorian, Larry Langsam, and Roy and Constance Fischer. Kenneth Gray, of Philadelphia, Pa., is President of Bryn Mawr Capital Management Inc. which manages a billion-dollar hedge fund. The Grays and Gawthrop own HLG Partners, which is the sole member of HLG Farms.

Over the next eight years, the Loess Hills partnership acquired a number of high quality farms, all located in Lafayette County, Mo. Lafayette County is known for its productive soils. Farm values increased significantly during that

time and the value of the partnership increased significantly as well. At the end of 2008, Kenneth Gray and Roy Fischer agreed that the farms were worth \$5,467,650.

In 2009, HLG exercised its right to buy out its St. Louis partners at fair market value. However, HLG obtained an appraisal that undervalued the farms. HLG retained Teddy “Jack” Blaylock, an appraiser in Columbia, Mo., to conduct an appraisal of the eight farms owned by the partnership. After conferring with the general partners of HLG Partners (Kenneth Gray, Doreen Gray and Gawthrop), Meredith Gray instructed Blaylock to appraise the eight separate farms as though they were “one farm,” artificially driving down their value. In addition, Blaylock utilized a number of older sales of inferior farms, some located several counties away, and valued the farms for \$4.1 million, which was \$1.3 million less than the partners’ agreed upon value the year before and more than \$2 million less than their fair market value. Roy Fischer objected to HLG’s use of the Blaylock appraisal, but HLG refused to abandon it.

Alan McCurdy, an appraiser retained by Fischer, valued the farms at approximately \$6.2 million. HLG rejected McCurdy’s appraisal despite the fact that they had used McCurdy to appraise farms several years earlier and McCurdy had better credentials than those identified in the partnership agreement for valuing farmland. Even after defendants received a subsequent appraisal by Steven L. Ritter that valued the farms for approximately \$6.5 million, HLG refused to abandon the Blaylock appraisal which valued the farms for \$4.1 million.

In February 2010, a Husch Blackwell team sued HLG in St. Louis County Circuit Court on behalf of Farm Properties and Land Property Associates over HLG’s use of the erroneous appraisal. Over the next several years, the case was transferred to Lafayette County and then Saline County based on defendants’ motions. As the plaintiffs developed evidence implicating Kenneth Gray and other principles of HLG Partners, they added them as defendants, along with Blaylock and his appraisal company. After the case was transferred to Lafayette County, plaintiffs retained Jim Hall and Bob Schnieders of Barton, Hall, & Schnieders, to serve with Husch Blackwell as co-counsel. In addition, Davis Biggs, a St. Louis attorney and general partner in Farm Properties, played a significant role in terms of legal strategy in the case.

Nolan, Hall, and Schnieders were honored at the Missouri Lawyers Awards ceremony on January 24, 2014, in St. Louis, Mo., and an official announcement of all winners will be publicized in the January 27, 2014, issue of *Missouri Lawyers Weekly*.

Husch Blackwell team members include: Partners Ed Lieberman and Michael Nolan, Associate Matt Knepper, Of Counsel Ken Heineman and Senior Paralegal Debra Feilner.