

June 25, 2012

Generator of Fraudulent Renewable Fuel Credits Found Guilty in Federal Court

In the first ever criminal prosecution associated with fraudulently generating renewable fuel credits known as Renewable Identification Numbers (RINs), on June 25, 2012, a jury in the U.S. District Court for the District of Maryland found Rodney Hailey, owner of Clean Green Fuel, LLC guilty on 42 criminal counts stemming from the sale of more than 32 million fraudulent RINs. Specifically, Mr. Hailey was found guilty of wire fraud, money laundering and violating the Clean Air Act. The jury deliberated for less than two hours. Mr. Hailey will be sentenced at a separate hearing scheduled for October 11, 2012.

Mr. Hailey's criminal acts first became public in October of last year when the government filed charges against him for selling biodiesel RINs and registering Clean Green Fuel with U.S. Environmental Protection Agency (EPA) as a producer of biodiesel, despite never actually producing any biodiesel. The issue gained further attention when EPA issued Notices of Violation against gasoline and diesel refiners, blenders and importers who used the fraudulent RINs generated by Mr. Hailey in order to comply with their obligations under the Renewable Fuel Standard. Under the Renewable Fuel Standard, RINs are generated on each gallon of renewable fuel produced. U.S. gasoline and diesel refiners, importers and blenders are required to purchase and submit these RINs for compliance purposes. Parties who submit invalid RINs for compliance are potentially liable for penalties and fines, even if such parties undertook best efforts to determine the validity of the RINs. In April, EPA entered into settlements with more than 30 such parties requiring the settling parties to replace the invalid RINs with other RINs and to pay corresponding fines under the Clean Air Act.

Mr. Hailey's generation of 32 million RINs is only a portion of the fraudulent RINs EPA asserts have been generated to date. In total, over the past 8 months EPA has invalidated more than 140 million biodiesel RINs generated under the Renewable Fuel Standard, at cost of more than \$100 million to gasoline and diesel refiners, blenders and importers. At this time the federal government has not pressed criminal charges against the other alleged fraudulent RIN generators. The decisiveness of today's verdict against Mr. Hailey, however, could signal that federal prosecutors might begin to formally pursue such producers.

Sutherland Asbill & Brennan's Energy and Environmental Group has significant experience representing refiners, blenders and importers of gasoline and diesel in EPA enforcement proceedings for alleged violations of the Renewable Fuel Standard based on possible use of invalid RINs.



If you have any questions regarding this issue, please feel free to contact any of the attorneys listed below.

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