

Patent Attorney Testifies About Failed MO Factory

David A. Lieb, Associated Press

JEFFERSON CITY, Mo. (AP) — A patent attorney who vouched for a Chinese artificial sweetener factory testified Thursday that he became aware of concerns about the Chinese site before a deal closed to finance the construction of a similar manufacturing plant in rural Missouri.

Los Angeles attorney Michael Wise testified by video conference after being subpoenaed by a special Missouri House committee investigating the failure of Mamtek U.S. Inc., which had been offered state and local incentives to open a factory in Moberly. Construction on the artificial sweetener plant halted this fall after Mamtek missed a payment to Moberly, which had issued \$39 million of bonds for the project.

Moberly has since said it will default on the bonds, and the federal Securities and Exchange Commission and Missouri attorney general have both launched investigations into Mamtek. Missouri lawmakers have been holding hearings aimed at determining whether state, local and private-sector officials exercised due diligence in screening the company, which had been touted by Gov. Jay Nixon to create 612 jobs.

At the conclusion of Thursday's hearing, the chairman of the House panel said he now believes he knows what went wrong.

"What we have is a perfect storm of inadequate government oversight and the derogation of professional duty in America's debt industry," said Rep. Jay Barnes, R-Jefferson City, an attorney who is chairman of the House Interim Committee on Government Oversight and Accountability.

Much of Thursday's questioning focused on Wise, a partner in the law firm of Perkins Coie, which had been hired by Mamtek to handle its patent applications for the sucralose manufacturing process. Moberly officials have testified previously that they decided to go forward with the bond issuance based partly on Wise's assurance in a June 2010 phone conversation that he had observed Mamtek's production line in China and had the company's "cookbook."

During testimony Thursday, Wise said he visited a Mamtek facility in Wuyishan City in Fujian Province, China, in November 2007 and saw a working factory line capable of producing up to 18 tons of sucralose annually. He also tasted tea — made at another nearby factory — that Mamtek officials said had been sweetened with its sucralose.

Wise said he visited the site again in November 2009 and observed a factory line

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capable of producing 60 tons annually of artificial sweetener. He said he also saw the company's recipe and assembly line blueprints. At that point, Wise said, it appeared Mamtek was close to being able to sell its product commercially.

The House committee on Thursday publicly released a document dated Dec. 15, 2009, that appeared to be a translation from the Wuyi District Management Committee in China indicating that government environmental officials had raised concerns and that Mamtek had agreed to withdraw from the project in Wuyishan City.

Business site consultant Tom Smith, a retired Missouri National Guard officer, testified Thursday that he had been contacted in January 2010 to help Mamtek CEO Bruce Cole look for a place to open a sucralose factory in the U.S.

"What ultimately led Mamtek to locate in Moberly was the city's commitment to provide financing," Smith said.

Wise said he became aware of concerns among Chinese officials about the location of the plant in Wuyishan City sometime before Moberly closed on its bond issuance. But lawmakers on the House committee did not ask Wise whether he had told Moberly officials about the problems with the Chinese site. Perkins Coie has declined to make Wise available for media interviews.

When Wise visited the Chinese site again in August 2010, he said, it was not producing sucralose and the 60-ton line was undergoing modifications.

Barnes described Wise's testimony as "a big deal," adding that it could mean there were false statements in the bond offering documents about Mamtek's production capabilities.

Moberly's bonds, which were backed by a pledge that the city would appropriate money for the debt payments, received an A-minus rating from Standard & Poor's Rating Services. That rating was based on Moberly's promise to pay off the bonds, not on the underlying worthiness of Mamtek's project, said Geoffrey Buswick, a managing director for Standard & Poor's who testified by telephone under subpoena.

Barnes said that if Standard & Poor's — or any of the other advisers involved in the bond issuance — had evaluated Mamtek's operations in China, the Moberly deal may never have gone forward.

"I think we have a fundamental flaw — for lack of a better term — in the American debt industry when it comes to representing the risks to borrowers," Barnes said.

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