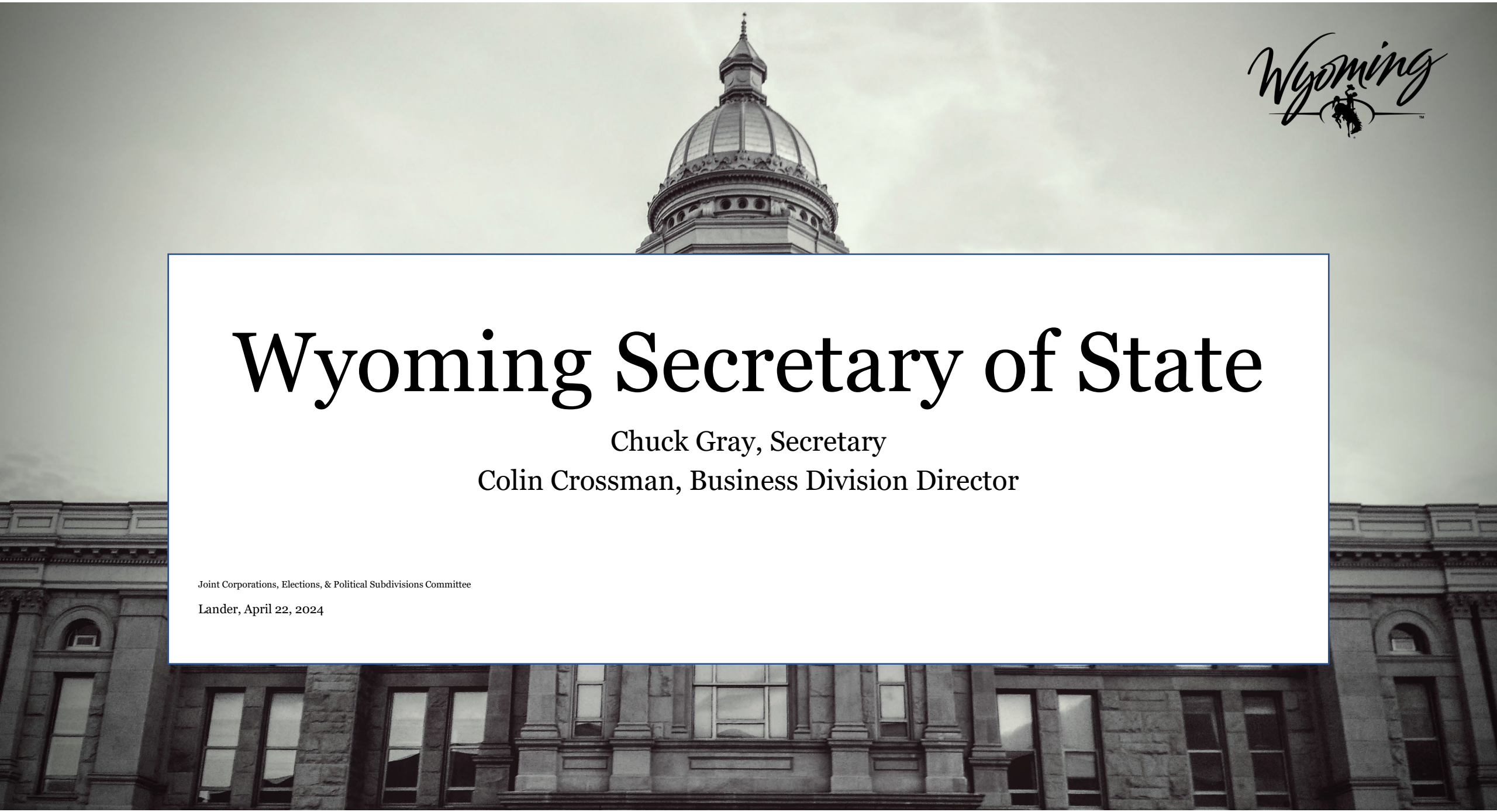


Wyoming Secretary of State

Chuck Gray, Secretary
Colin Crossman, Business Division Director

Joint Corporations, Elections, & Political Subdivisions Committee

Lander, April 22, 2024

Trade Names and Trademarks

- Trade Names Overview
  - W.S. 40-2-101 through W.S. 40-2-111
  - “Trade name” is defined as “a word, name, or any combination of the foregoing in any form or arrangement used by a person to identify his business, vocation, or occupation and distinguish it from the business, vocation or occupation of others.”
  - Ex. “ABC LLC” could have trade name “ABC”
- Trademarks Overview
  - A Trademark is more than an entity name or Trade Name;
  - Provides a broader scope of protection covering “deceptive similarity;”
  - Ex. Bucking Horse and Rider



Trade Names and Trademarks (Cont'd)

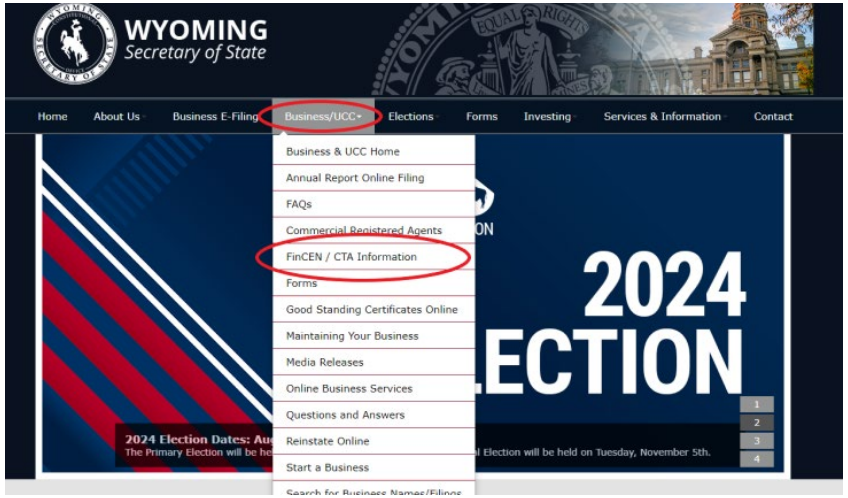
- Administrative Limitations - Trade Names and Trademarks
  - Corporate entities allow administrative dissolution in instances of **fraud**;
    - *See* W.S. 17-16-1420 and W.S. 17-29-705
  - Many trade name and trademark issues require **judicial intervention** in almost all cases
    - Trade Names – W.S. 40-2-107
    - Trademarks – W.S. 40-1-108
  - Administrative Solutions to Address Fraud and other Issues
    - Amendments to existing statute to allow administrative action for prior use and fraud
    - Interaction with U.S. Patent and Trademark Office

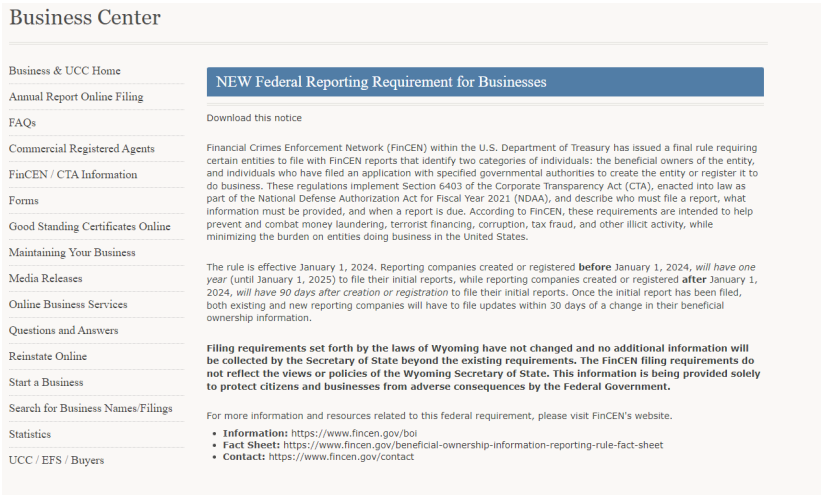
Federal Reporting Requirements

- Legislative Background - Corporate Transparency Act
  - Section 6403 of the Corporate Transparency Act enacted into law as part of National Defense Authorization Act in 2021;
  - In fall of 2022, U.S. Dept. of Treasury issued final rule requiring certain entities to file with FinCEN
- Reporting Requirements
  - Rule is effective January 1, 2024;
  - Reporting entities registered **before** January 1, 2024 → Must register by January 1, 2025;
  - Reporting entities registered **after** January 1, 2024 → Must register within 90 days after initial filing with state;
  - Must identify two categories of individuals:
    - Beneficial owners of the entity; and
    - Individuals who have filed an application with specified governmental authorities to create the entity or register it to do business
      - E.g. organizer/incorporator

Federal Reporting Requirements (Cont'd)

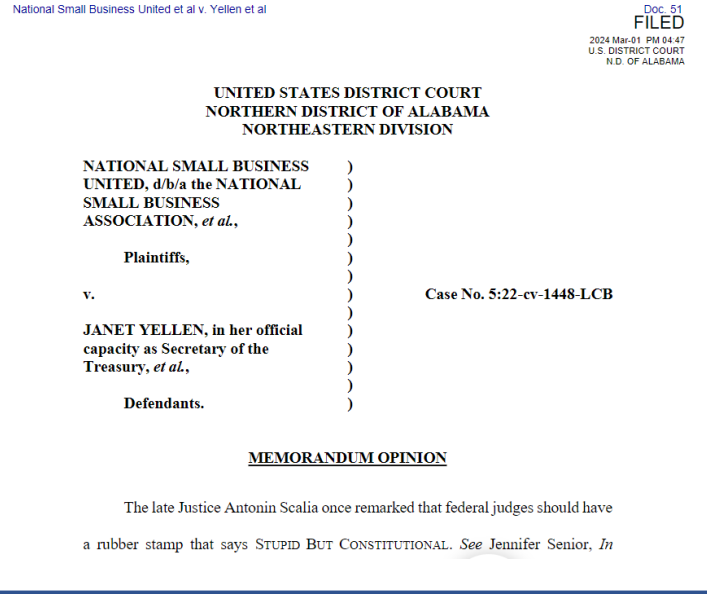
- State Requirements
  - Filing requirements set forth by laws of Wyoming have NOT changed;
  - No additional information will be collected by Secretary of State beyond existing requirements in Wyoming law;





Federal Reporting Requirements (Cont'd)

- Active Litigation
  - In fall of 2022, National Small Business United sued the U.S. Department of Treasury in U.S. District Court, Northern District of Alabama;
  - On March 1, 2024, Court declared CTA unconstitutional;
    - Ruling stated that the CTA could not be justified under Congress' enumerated powers;
    - Specifically, could not be justified under the National Security, Taxation, or Commerce Clause
  - The ruling applied only to the plaintiffs and their members;
  - Ruling has been appealed to the 11th Circuit Court of Appeals



National Small Business United et al v. Yellen et al

Doc. 51
FILED
2024 Mar-01 PM 04:47
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

NATIONAL SMALL BUSINESS UNITED, d/b/a the NATIONAL SMALL BUSINESS ASSOCIATION, *et al.*,

Plaintiffs,

v. **Case No. 5:22-cv-1448-LCB**

JANET YELLEN, in her official capacity as Secretary of the Treasury, *et al.*,

Defendants.

MEMORANDUM OPINION

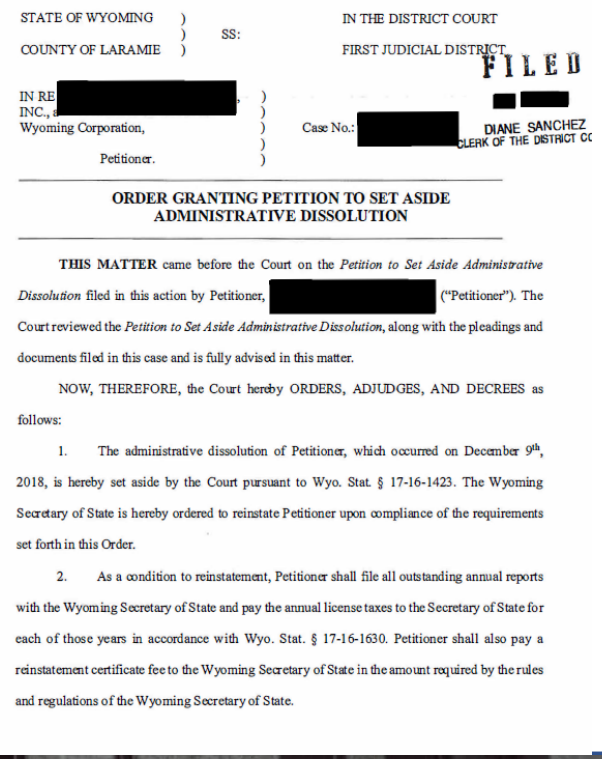
The late Justice Antonin Scalia once remarked that federal judges should have a rubber stamp that says STUPID BUT CONSTITUTIONAL. *See* Jennifer Senior, *In*

Reinstatement Procedures

- Grounds for administrative dissolution
  - Failure to deliver annual reports or pay annual license taxes
  - Entity is without a registered agent or registered office in Wyoming
  - Failure to notify Secretary of State that registered agent or registered office has changed
  - Corporation's period of duration expires;
  - In the public interest and fraudulent activity
  - Cannot be served
  - Failure to respond to valid and enforceable subpoena
- Procedure for administrative dissolution
  - Written notice and right to cure in most instances
  - Failure to correct grounds for dissolution within 60 days after notice is served results in administrative dissolution

Reinstatement Procedures (Cont'd)

- Administrative Reinstatement
  - **Within 2 years** of dissolution, entity may apply to Secretary of State;
  - Must state that ground or grounds for dissolution either did not exist/have been eliminated;
  - Pay back payments and penalties as applicable;
  - If reinstatement procedure met, Secretary of State shall reinstate entity
- Judicial Reinstatement
  - If Secretary of State denies, entity has 30 days to appeal;
  - If more than 2 years since dissolution entity may seek judicial reinstatement



STATE OF WYOMING)
) SS:
COUNTY OF LARAMIE)

IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT

FILED

IN RE [redacted],)
INC., a)
Wyoming Corporation,)
Petitioner.)

Case No.: [redacted]

DIANE SANCHEZ
CLERK OF THE DISTRICT CO

ORDER GRANTING PETITION TO SET ASIDE ADMINISTRATIVE DISSOLUTION

THIS MATTER came before the Court on the *Petition to Set Aside Administrative Dissolution* filed in this action by Petitioner, [redacted] ("Petitioner"). The Court reviewed the *Petition to Set Aside Administrative Dissolution*, along with the pleadings and documents filed in this case and is fully advised in this matter.

NOW, THEREFORE, the Court hereby ORDERS, ADJUDGES, AND DECREES as follows:

1. The administrative dissolution of Petitioner, which occurred on December 9th, 2018, is hereby set aside by the Court pursuant to Wyo. Stat. § 17-16-1423. The Wyoming Secretary of State is hereby ordered to reinstate Petitioner upon compliance of the requirements set forth in this Order.

2. As a condition to reinstatement, Petitioner shall file all outstanding annual reports with the Wyoming Secretary of State and pay the annual license taxes to the Secretary of State for each of those years in accordance with Wyo. Stat. § 17-16-1630. Petitioner shall also pay a reinstatement certificate fee to the Wyoming Secretary of State in the amount required by the rules and regulations of the Wyoming Secretary of State.

Fraud and Abuse of Corporate Filings

- Increased Oversight of Commercial Registered Agents
  - Actions Taken:
    - Increased number of complete, **in-person audits** of commercial registered agents in Wyoming;
    - Resulted in ongoing investigations and issuance of findings and orders;
    - Resulted in heightened awareness of compliance in CRA community and inquiries to comply;
  - Further Action:
    - Further requirements on **third party organizers**;
    - Enhanced disclosure of certain filings to verify organizers are natural persons

Fraud and Abuse of Corporate Filings (Cont'd)

- Retaining Privacy while Preventing Fraud and Abuse
  - Increased liability for fraudulently filed documents
  - Interaction with Office of Foreign Assets Control
  - Strengthening administrative dissolution procedures for entities owned or controlled by foreign adversaries;
    - See W.S. 17-16-1420 and W.S. 17-29-705

Business Division Update

- Exponential Growth – Filings and Revenue
  - Office has seen exponential growth in both filings and revenue
    - $8.5 MM increase in revenue in last fiscal year
      - FY 2023: $52.8 MM
      - FY 2022: $43 MM
    - Increase in scale of business entities registered with Secretary of State's Office:
      - FY 2023: approximately 600,000 active business entities registered
      - FY 2022: approximately 509,000 active business entities registered
    - Corresponding increase in online and paper business filings:
      - FY 2023: 520,000 processed (not including UCCs and EFS statements)
      - FY 2022: 408,000
      - FY 2021: 355,000

Business Division Update (Cont'd)

