

CREDITS: \$703.6M in energy tax credits sold to investors from 2006-2014

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cents on the dollar as negotiated by Blue Tree Strategies’ client Sky Lakes Medical Center in Klamath Falls. Two other clients, public transit providers in southern Oregon, had arranged to sell their tax credits for 80 cents on the dollar, rather than 95 to 98 cents under a pricing formula required in state law.

For Blue Tree Strategies and its clients, the knowledge they could negotiate deeper discounts was a competitive advantage: they could market tax credits that were less expensive and therefore more attractive to buyers. Energy officials’ decisions to allow the lower negotiated prices also meant the tax credits raised less money for the energy efficiency projects lawmakers wanted to incentivize.

Close ties

Blue Tree Strategies has ties to the Department of Energy going back to at least the start of then-Gov. John Kitzhaber’s third term, when the firm landed a contract with the nonprofit Clean Energy Works Oregon to promote the state’s Cool Schools energy retrofit program to school districts. The consultants also administered grants to supplement the state program.

The department runs Cool Schools, which was part of Kitzhaber’s job creation platform during his 2010 campaign. It helps schools to install new energy-efficient technology such as lighting and heating, ventilation and cooling systems.

Blue Tree Strategies also interacted with the city of Portland, the governor’s office and Clean Energy Works Oregon even before the Cool Schools contract.

Aaron Berg, the company’s founder and owner, contracted with the city of Portland in 2010 to help launch Clean Energy Works Oregon, which got its start with \$20 million in federal economic stimulus money. The Kitzhaber administration was interested in the nonprofit’s work and while Berg was Clean Energy Works Oregon’s chief financial adviser, the governor’s business adviser Scott Nelson attended the nonprofit’s meetings.

Consultants working for Blue Tree Strategies also included Matthew Collier and John Warner, who previously worked at the Portland Development Commission. Collier

and Warner also marketed tax credits through the corporation RDTFM, Inc.

Together, Blue Tree Strategies and RDTFM, Inc. have lined up more than two dozen tax credit sellers, including several local governments, and approximately 50 buyers since they started brokering tax credits in 2009. Public clients included the Port of Portland, Metro regional government, TriMet transit agency and Columbia and Marion counties. RDTFM, Inc. dissolved in 2014 and the consultants now all work for Blue Tree Strategies.

Berg doesn’t characterize Blue Tree Strategies as a major broker of Oregon energy tax credits. Nonetheless, Berg said, the Blue Tree Strategies and RDTFM, Inc. has helped sell approximately \$15 million in state energy tax credits as of early August. The Portland Bureau of Transportation alone sold roughly \$2 million worth of tax credits through Blue Tree Strategies.

Still, Berg said, “we’re not a big player in this.”

Berg pointed to figures reported by EO Media Group/Pamplin Media Group Capital Bureau, that \$703.6 million in Oregon business energy tax credits were sold to investors from 2006 to 2014. The Department of Energy was also still facilitating tax credit sales during that period. Other tax credit brokers were mostly accounting firms, lawyers and financial advisers, according to chief financial officer Anthony Buckley and state records.

Local governments and private clients paid the two firms hundreds of thousands of dollars for facilitating the sale of their credits. According to public records, Blue Tree Strategies and RDTFM, Inc. charged a commission of 2 percent to 10 percent on the tax credit sales.

Berg said Blue Tree Strategies started to broker tax credit sales after meeting people who were struggling to find buyers.

“We didn’t seek it out,” Berg said. “Our experience in the ‘09, ‘10, ‘11 days was our clients had a problem. And their problem was (Oregon Department of Energy) wasn’t selling their credits for them. But for that problem, we would never be in this business.”

Rachel Wray, a spokeswoman for the Department of Energy, said it was difficult for the agency to keep up with demand for buyers

after the state expanded the program. The Legislature passed a major expansion of the business energy tax credits in 2007 at the urging of then-Gov. Ted Kulongoski. Then, after it became clear the business energy tax credit would cost the state far more in lost revenue than energy officials had promised, lawmakers voted to end that tax credit in 2011. Energy officials shifted their focus away from helping energy projects find buyers for their tax credits.

Blue Tree makes connection

Around the same time, Blue Tree Strategies secured the 16-month \$106,000 contract through Clean Energy Works to promote Kitzhaber’s Cool Schools energy retrofit program and administer supplemental grants to schools. Stephanie Swanson, director of

marketing for Clean Energy Works, said the federal stimulus funds carried a requirement to spend some of the money on projects that would increase energy efficiency for commercial buildings.

Blue Tree Strategies coordinated with the state during the Cool Schools project and Berg said he consulted with Buckley, the energy agency’s chief financial officer, about the state’s plans for the program. Part of the job was to sign school districts up for the state program: Collier wrote in his resume that he “led an effort to support the success of the Oregon Cool Schools Initiative to help school districts finance the installation of energy efficiency measures under the (state’s) Small-Scale Energy Loan Program.”

Buckley, who oversees the Department of Energy’s tax incentive, energy grant and loan programs, did not

respond to questions about when he met Berg and Collier.

The negotiated price deals Blue Tree Strategies and its clients pushed the state to allow this year date back to 2014, when Buckley told Blue Tree Strategies the firms’ clients could ignore tax credit price mandates in state law and published rules. Buckley said his interpretation of the law was based on discussions with the Oregon Department of Revenue and Oregon Department of Justice. The energy agency has refused to release a copy of the Department of Justice opinion on the issue.

Although Blue Tree Strategies’ clients struck deals based on Buckley’s advice, another Department of Energy employee stood in the way.

Joe Colello, who handled tax credits and other renewable energy and efficiency

incentives at the agency, wanted Kaplan or the Department of Justice to confirm the agency could legally process deals that appeared to violate the pricing formula mandated in state law. The Department of Energy was also under increased pressure to take a public position on whether it would allow the deep discounts, because Colello had discussed the issue with a tax auditor at the Department of Revenue and other brokers had heard rumors the energy agency was allowing the deals. In January, Senior Manager Irina Antonache at the accounting firm Moss Adams emailed Colello to ask if the state was allowing deeper discounts on the tax credit sales than allowed under state rules. Colello responded that an unidentified broker had indeed arranged for deeper discounts and Buckley was involved in those discussions.

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