

Former McAfee GC Sees A Conspiracy And Sues

By: Vanessa Vidal

The former McAfee GC sees a conspiracy and sues. Could that spell career suicide? The ex-McAfee, GC Kent H. Roberts has sued his former employer for defamation, invasion of privacy and malicious prosecution. And that's not all. Claiming a conspiracy theory that he calls "Project Shield," in Oliver Stone style, Roberts alleges that the company's outside lawyers at Wilson Sonsini Goodrich & Rosati and Howrey, worked in unison in helping to frame him.

What's a jilted lawyer to do? Sue of course.

In 2007, Roberts was charged with several backdating counts relating to stock options. The SEC brought civil charges later that year. However, after Roberts was acquitted, prosecutors dropped all charges. In March of this year, the SEC dismissed its case.

Most GC's would move on from having dodged this bullet, perhaps even feeling vindicated in the outcome. In fact, that's exactly what most GC's in this situation have been doing. In the past five years, at least 34 in-house attorneys have been convicted of, pleaded guilty to or settled civil or criminal charges brought by the SEC or the DOJ, and another 12 have been charged and have cases pending. The following GCs were also acquitted and had their case dismissed: Scott Monson; GC, JB Oxford Holdings, Inc.; Scott Wiegand; GC, PurchasePro.com; Mark Belnick; Chief Corporate Counsel, Tyco International; Jay Lapine; GC, HBO & Co.; and Daniel Adkins; GC, Xpress Pharmacy Direct.

While in several cases, the GCs were the easy fall guys, acting themselves as an unwitting shield to protect senior-level executives; all of them seem to have moved on. In a follow-up June 2008 story, Corporate Counsel looked at where the General Counsels of the stock option backdating in Silicon Valley had gone. Only three remained in the same general counsel job. Most of the GCs were apparently no longer practicing law, or had retired based on their bar entries. Those who had been acquitted were able to move on to other pastures. Most importantly, none of these former GCs had sued their former company.

Why not? Those who were acquitted were most likely looking to move on to other companies. Suing a former employer as a GC is like earning a "Scarlett letter," it follows you everywhere you go and will earn you the kind of reputation that will keep companies away. It can be a career-suicide move; whether or not the suit has any merit. It's often between a choice of seeking justice over seeking a job, and practicalities tend to win out.

Win or lose, Roberts' career as a GC has been seriously compromised by filing this lawsuit. Hopefully, it will have been worth it.