Coca-Cola Case Study: An Ethics Incident

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Introduction

The Sarbanes-Oxley Act of 2002, sponsored by US Senator Paul Sarbanes and US Representative Michael Oxley, represents the biggest change to federal securities laws since the New Deal. (11). One of the first companies to become involved in the new act was the Coca-Cola Company which represents an internationally recognized brand product. In 2003, the Sarbanes-Oxley Act and the Coca-Cola Company came together in Georgia courtroom when former Coca-Cola employee Matthew Whitley's lawsuits against the company went to trial. Whitley had filed for protection under the whistleblower provision of the Sarbanes-Oxley Act.

Whistle-blower protection is not new, but the Sarbanes-Oxley Act of 2002 for the first time provided a system of protection for employees of publicly owned businesses. The need for such a law was evidenced by the abuses and wrongdoings at Enron and other companies. Matthew Whitley discovered such abuses and wrongdoings at the Coca-Cola Company and sought action, thus shedding light on misconduct at one of the world's most well-known corporations.

The History of The Coca-Cola Company

The global Coca-Cola Company, founded and headquartered in Atlanta, Georgia, is known for its close ties to the city and, in particular, its philanthropic history. In 1886, pharmacist John Pemberton created the soft drink Coca-Cola by combining soda water, lime, cinnamon, coca leaves, and Brazilian shrub weeds. The drink was originally sold in Atlanta in Jacob's Pharmacy for five cents a glass as a soda fountain drink. The actual "Coca-Cola" trademark was suggested by Pemberton's partner and bookkeeper, Frank M. Robinson. Robinson thought that a name with two C's would look nice in advertising, and he penned the now-famous Coca-Cola logo in his own handwriting. Pemberton's recipe was purchased on April 14, 1891, for $2300 by Asa Chandler, an Atlanta pharmacist and businessman who turned Coca-Cola into the internationally recognized brand it is today. By 1892, Chandler's talent for merchandising had boosted sales of Coca-Cola nearly tenfold. He soon collaborated with his brother John S.

Chandler, John Pemberton's former partner Frank Robinson, and two other associates to form a Georgia corporation called The Coca-Cola Company. Ernest Woodruff purchased the Coca-Cola Company in 1919 for $25 million. He turned the company over to his son Robert Woodruff in 1923.

Today Coca-Cola's reach spreads far beyond Georgia and even the United States; the company has become one of the world's most recognizable corporations. The Coca-Cola brand is one of the five most recognized symbols in the world. Currently, the Coca-Cola Company has nearly 400 brands in over 200 countries. In 2004, the company's total net operating revenue equaled $21,962.

Coca-Cola Company's Philanthropic History

Coke's long philanthropic history began with the Asa Chandler family who contributed money to the establishment of Emory University. The company's generosity continued with the Woodruff family. The personal friendship between Robert Woodruff and Dwight Eisenhower aided in the decision to locate the Centers for Disease Control in Atlanta. Woodruff donated money to purchase the land for the CDC, which has a $2.5 billion economic impact on Georgia annually. The Woodruffs also donated money to develop Atlanta's Centennial Olympic Park. Other beneficiaries of Coca-Cola Company funds include the Robert W. Woodruff Health Science Center, the Medical College of Georgia, the American Cancer Society, the CDC foundation, and Children's Healthcare of Atlanta.

As a result of the Woodruff Foundation's contributions, Atlanta has become a headquarters city for nonprofit organizations. The American Cancer Society, CARE, the Boys and Girls Clubs of America, and Junior Achievement International moved their headquarters to Atlanta after receiving gifts of land and/or moving expenses from the foundation. In addition, Coke has donated money to many academic institutions including Emory University, Clark Atlanta University, Morehouse College, Spelman College, Atlanta Speech School, Woodward Academy, Raburn Gap-Nacoochee School, Georgia Tech (the Coca-Cola headquarters is located across the street from the Tech campus), Agnes Scott College, and Berry College. The Coca-Cola Company has also contributed to many environmental-related recipients over the years. Among them are the Ossabaw Island wildlife preserve, the Atlanta Botanical Garden, the Piedmont Park Conservancy, Callaway Gardens, the Georgia Department of Natural Resources, the Nature Conservancy, and the Trust for Public Land.

The Sarbanes-Oxley Act of 2002

On July 30, 2002, Congress passed the Sarbanes-Oxley Act in response to recent widespread corporate misconduct. This act was intended "…..to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes." The legislation primarily enforces reform in corporate accounting and auditing procedures. (5) The act contains a "…..whistleblower provision that protects employees who report wrongdoing in their companies. The employees are not only protected, they are actually encouraged to blow the whistle" (4).

Section 806 of the Sarbanes-Oxley Act provides protection to whistleblowers when they provide information that they "reasonably believe" – whether or not they are correct – to be a violation of federal securities law or laws relating to fraud against shareholders to a federal regulatory agency or law enforcement agency, a member of Congress, a congressional committee, any of their supervisors within the company, or any employee with the power to "investigate, discover, or terminate misconduct" (Salem, N.d. p.2). The law also applies to an employee who "assists in any proceeding actually filed or about to be filed relating to securities fraud or fraud against shareholders" (Salem, n.d., p. 2).

Section 301 provides for employees of publicly traded companies to establish a system to solicit, receive, and review employee accusations concerning fraud and ethical violations, even anonymously. Employees protected under Sarbanes-Oxley cannot be discharged, demoted, suspended, harassed, or discriminated against in any way because of whistle-blowing activities according to section 806. In addition, the law prohibits retaliatory actions by the employer as well as actions by any officer, employee, contractor, subcontractor, or agent of the company (Salem, n.d., p. 3).

The procedure for filing a claim under Sarbanes-Oxley is as follows:
Employees who believe they have been wronged can file a claim with the Secretary of Labor, who has delegated responsibility for investigation of complaints to the Occupational Safety and Health Administration (OSHA). The claim must be filed within 90 days of the alleged wrongful activity. An investigation will be conducted if the employee proves that the whistle-blowing activity was a contributing factor in the adverse employment action. The burden of proof is placed upon the employers; Section 806 of the Sarbanes-Oxley Act requires employers to demonstrate by "clear and

convincing evidence" that adverse actions taken against whistleblowers were not retaliatory. OSHA can refuse to conduct the investigation if the employer can prove that it would have taken the adverse action despite the whistle-blowing activities. If OSHA finds that the employee was retaliated against, the employer must immediately reinstate the employee. Employees who prevail in legal proceedings may be entitled to the following damages:

- Reinstatement to the same seniority status that the employee would have had but for the adverse employment action
- Back pay
- Interest
- All compensatory damages to restore the employee to their original position
- "Special damages", including litigation costs, reasonable attorney's fees and costs, expert witness fees, and "all relief necessary to make the employee whole (Salem, n.d., p. 2).

Should the complaint not be resolved within 180 days, employees may file an action in Federal District Court.

Matthew Whitley and The Coca-Cola Company

One of the first filings under the Sarbanes-Oxley Act occurred when Matthew Whitley filed a claim with OSHA stating that he was fired after disclosing accounting irregularities. Whitley was hired by the Coca-Cola Company in 1992 and remained with the company for approximately eleven years. Whitley began his career with Coke as an auditor for the corporation's Fountain Division and later became its Finance Director. During his tenure with the Coca-Cola Company, Whitley made a number of discoveries that concerned him. In March 2001, he came across an unusual expense report while conducting a routine audit: a fountain official had claimed reimbursement for $4500 worth of Burger King value meals. The reimbursement, he later learned, was part of a scheme by John Fisher, Coca-Cola's account manager with Burger King, to rig a marketing test of Frozen Coke in the Richmond, Virginia area.

A consultant had been paid to hire kids to purchase Burger King value meals in the Richmond area, thus falsely inflating the demand for the Frozen Coke product. Upon finding out about the plan, Coca-Cola reduced Fisher's bonus and stock options. Whitley also claimed accounting problems with Coke's iFountain project. Allegedly, Coke and equipment manufacturer Lancer Corp. covered up an iFountain slush fund by

falsifying significant financial information about Lancer's revenues in filings with the Securities and Exchange Commission. Apparently, Coke had Lancer Corporation overcharge for standard dispensers which allowed lower prices to be charged on the iFountain machines.

Whitely claimed further that more than 80,000 of the company's frozen beverage machines nationwide were defective and contaminating slush drinks with metal residue. Coke supposedly knew about the defective machines but did nothing to correct the problem. Whitley also claimed that Coca-Cola discriminated against minority employees by holding them to a higher standard than white employees.

Whitley sent a detailed memo containing the allegations to Coke president Steve Heyer. One week later, Whitley received what he claimed to be the worst performance evaluation of his career. This poor evaluation came just one month after Whitley had been praised by his manager, Brian Hannafy, as being a "role model" for the company and "all about integrity" and "doing the right thing" (12). On March 26, 2003, Whitley's employment was terminated. On April 28, Whitley sought $44.4 million by May 5 from the Coca-Cola to keep him from going public with his allegations, which some people believed were true. Coke refused to pay. Whitley then filed a claim for punitive damages in the Superior Court of Fulton County in Atlanta on May 19, 2003, for slander, wrongful termination, and intentional infliction of emotional distress. In addition, he filed a suit against Coke in the U.S. District Court for the Northern District of Georgia on May 27, 2003, accusing Coke of improper accounting, fraudulent marketing schemes with Burger King, selling contaminated Frozen Coke, racial discrimination, as well as other charges. Also, on June 20, 2003, Whitley filed a Sarbanes-Oxley Act claim with the Occupational Safety and Health Administration so that he would be protected from any action from Coke despite having blown the whistle on his former employer.

The audit committee of Coke's board of directors ordered an internal investigation of Whitley's allegations which were being wrongfully fired, put through emotional distress, and slander. The audit committee confirmed only two of Whitley's allegations. The committee confirmed that the test results of the Burger King promotion in Richmond, Virginia were improperly influenced and indicated that further investigation should be conducted on the financial arrangements between the iFountain Division and certain equipment suppliers.

The Trial and Settlement

Judge Elizabeth Long of Fulton County Superior Court dismissed five of Whitley's claims. Two of the dismissed claims dealt with the accusations of a racketeering conspiracy by Coke and several other high-level employees. Judge Long also dismissed a claim of extortion against Whitley. She also dismissed Whitley's claim of breach of fiduciary duty by Coke executives along with a claim of invasion of privacy for portraying Whitley in a "false light" (8). The allegations not dismissed by Long dealt for the most part with the wrongful termination of Whitley.

Whitley ultimately settled his claims with the Coca-Cola Company for $540,000, of which $300,000 covered legal fees. He received a payout of $100,000 plus $140,000 in severance benefits. Coke also settled with Burger King. In an effort to maintain its alliance with Burger King, Coke agreed to pay Burger King an estimated $21.1 million to settle the dispute involving Frozen Coke. As a part of the settlement, Burger King agreed to continue selling Frozen Coke at its 8400 locations. (6)

Conclusion

In light of Whitley's allegations and lawsuit, it has become apparent that Coke's procedures for handling internal complaints were inadequate. Business should be vigilant in establishing policies to quickly respond to employee accusations to prevent costly and time-consuming litigation. Employers may incorporate policies that support the Sarbanes-Oxley Act into their existing ethics programs. Furthermore, they should document examples of the types of activities that should be reported and make it clear that employees have a duty to report questionable activities. At this time, it is difficult to assess whether the Sarbanes-Oxley Act will have the impact legislators intended because employees must weigh the consequences that whistle-blowing will have on them personally. Employees who win their cases are left to decide whether they can continue to work in a company where they may be labeled as "troublemakers." If they decided they cannot do so, they may be forced to change industries as their reputation may follow them within their given industry and beyond. In Matthew Whitley's case, he sent out 150 resumes, networked with approximately 50 people, and worked with six recruiters during his first three months of job searching; he had one interview. Clearly, Whitley's widely-published dispute with Coke has hurt him. Even after all the turmoil,

Whitley would not be opposed to working with the Coca-Cola Company again. Still, he knows that is not realistic, stating “They’d never let me back in the door.” (4)

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APPENDIX A

Questions for Discussion

1. Do you think Whitley's termination was appropriate, given the fact he had reported allegations of corporate wrong doing to Coca-Cola legal counsel and an investigation was pending?

   Whitley's termination was appropriate because he was fired along with 1,000 other employees, supposedly as part of a company restructuring. Therefore, it would appear that Whitley was not singled out and targeted because of his allegations.

2. Do you believe Coke should have retained Whitley until after the allegations had been investigated?

   Coke should not have retained Whitley during the investigation because he had been fired along with 1,000 other employees. While the Department of Labor can order an employee reinstated while the proceedings go forward, to have to reinstate someone pending resolution of their case is virtually unheard of. Had Whitley won his case, he would have been eligible under Sarbanes-Oxley Act for reinstatement to the same seniority status that he would have had but for the adverse employment action, back pay, interest, and all compensatory damages to make the employee whole.

3. Do you believe employees who are performing poorly or about to be laid off are likely to file claims under Sarbanes-Oxley Act as a way to save their jobs?

   Employees who feel their jobs are in jeopardy will likely file claims under Sarbanes-Oxley Act to save their jobs. Employees may feel they have nothing to lose by filing a claim because a high burden of proof rests on the corporation and not on the employee who files the claim. The employee does not even have to be correct about his suspicion.

4. Do you see the "reasonable belief" criteria exposing companies to unnecessary and costly investigations?

The reasonable belief criteria will likely be a problem for corporations. Again, a heavy burden of proof lies on the corporation, and provides a scapegoat option to employees who file complaints.

5. Since April 26, 2003, all publicly traded companies on national securities exchanges are required to have procedures in place that allow employees to report questionable accounting practices directly to the company's audit committee confidentially and anonymously. What additions or changes do you believe will have to be made to a company's ethics program to incorporate requirements of the Sarbanes-Oxley Act?
   .
   - Proper ethics and compliance involving communication and training of upper management, employees, and agents
   - Required annual audits and effectiveness reports
   - Specific individual(s) to oversee the compliance program (such as a C-level executive, audit committee, or some other compliance officer)
   - An incident reporting mechanism that allowed employees the option to submit anonymous and confidential questions and information
   - An opportunity for employees to "seek guidance regarding potential or actual criminal conduct without fear of retaliation"
   - A required planned incident reporting method for firms to respond to reports of criminal activity and prevent future, similar infractions

6. Do you think most managers/supervisors will be able to recognize a potential Sarbanes-Oxley Act whistleblower complaint?

   With proper training, managers and supervisors should be able to recognize potential whistleblower complaints and be able to respond to such complaints. The company may consider having its employment lawyers work as a team with securities and corporate lawyers in developing and conducting Sarbanes-Oxley Act training and designing the company's complaint procedures.

7. Is it possible that Whitley, along with the other 1,000 employees, was laid off because he failed to properly manage his division or was it part of Coke’s downsizing? Was Mr. Whitley in charge of the division in which the scandals occurred?

Whitley was finance director in the fountain division where the scandals occurred. It is more likely that he was fired simply because of company downsizing rather than because of poor management of his division.

8. Are there any updates on the in situations of Coke by the SEC and the federal government? (Check Google and the Coke web site.)

   At this time, no updates can be found on the investigations.

9. What are the duties of the "audit committee"? How is it selected?

   According to Section 301 of the Sarbanes-Oxley Act, "The audit committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer. The audit committee shall establish procedures for the "receipt, retention, and treatment of complaints" received by the issuer regarding accounting, internal controls, and auditing. Each audit committee shall have the authority to engage independent counselor other advisors, as it determines necessary to carry out its duties, Each member of the audit committee shall be a member of the board of directors of the issuer, and shall otherwise be independent."

10. Does it appear that Mr. Whitley really was fired because he "blew the whistle”?

    Only the executives who fired Whitley know for certain whether or not he was fired because he blew the whistle, An argument could be made on either side. One, could argue that Whitley was indeed fired for blowing the whistle because he received the worst performance evaluation of his career after sending a memo detailing his allegations to Coke president Steve Heyer and was shortly thereafter fired, However, one could also argue that Whitley's termination was, as Coke states, nothing more than a part of a company restructuring, After all, when a company is downsizing, even excellent employees sometimes find themselves out of a job.

11. What committee was more responsible for noticing the irregularities in accounting?

The Audit Committee is responsible for tracking accounting irregularities, It is defined by Sarbanes-Oxley Act as a committee (or equivalent body) established by and amongst the board of directors of the issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer, The committee also audits the financial statements of the issuer.

12. How many different forms of criminal acts had been committed if Coca-Cola was indeed at fault? Specifically, which sections of the act qualify?

    Approximately four criminal acts were allegedly committed by Coca-Cola, The acts include falsifying financial information, knowingly allowing the contamination of the slush drinks caused by defective equipment, and discriminations against minorities, Some of these issues are covered in sections 80 I and 802 of SarbanesOxley Act.

13. Were there internal issues at Coca-Cola that could be classified as conspiracies? What were they and what part of the act are they related to?

    The primary issue in this case that could be considered a conspiracy is Whitley's termination after sending a memo containing allegations against Coke to the company's president Steve Heyer. One could argue that Whitley lost his job simply because he "knew too much", Section 806 of the Sarbanes-Oxley Act provides protection to whistleblowers when they provide information that they "reasonably believe" - whether or not they are correct - to be a violation of federal securities law or laws relating to fraud against shareholders to a federal regulatory agency or law enforcement agency, a member of Congress, a congressional committee, any of their supervisors within the company, or any person employed with the employer with the power to investigate, discover, or terminate misconduct.

14. How many sections of the Sarbanes-Oxley Act are in question with this case? In your opinion, what are the top three?

    One could argue that the top three sections in this case are 302 (Corporate responsibility for financial reports), 801 (corporate and criminal fraud accountability)

and 805 (protection for employees of publicly traded companies who provide evidence of fraud.)

APPENDIX B

FREQUENTLY ASKED QUESTIONS ABOUT THE SARBANES-OXLEY ACT OF 2002.

WHAT IS THE ORIGIN OF THE WHISTLEBLOWER CONCEPT?

The concept was born in English common law but introduced in America in 1863 when the federal False Claims Act shielded employees who informed about misconduct by government suppliers during the Civil War (Holsendolph, 2003).

HAS PASSAGE OF THE SARBANES-OXLEY ACT AFFECTED CORPORATIONS?

As a result of Sarbanes-Oxley, corporations also have to change how they do business. To protect against potential Sarbanes-Oxley whistleblower claims (and to comply with other sections of the law as well), employers are establishing ethics policies implementing internal reporting procedures as well as providing training to ensure that corporate misconduct, securities violations, or fraud are properly reported; and that employees making such reports do not suffer adverse consequences for reporting them. In fact, by April 26, 2003, all public companies listed on national securities exchanges or associations were required to have procedures in place that allow employees to report questionable accounting practices directly to the company's audit committee confidentially and anonymously (Greenbaum, 18 Nov 2002).

The bill has cost corporations vast amounts of money. A recent study conducted by international law firm Foley & Lardner of Chicago found that "Sarbanes-Oxley nearly doubled the expense of being a public company, from $1.3 million to almost $2.5 million." Some companies are creating new compliance and governance officer positions such as Chief Governance Officer. Additional lawyers also have to be hired. The greatest cost increase, however, has been in accounting fees, which jumped 105 percent. Board compensation has shot up 98 percent. Insurance for directors and officers has jumped 94 percent. Legal fees have increased 90 percent" (Perin, 2003).

WHAT IS A KEY FACTOR OSHA CONSIDERS IN DETERMINING WHETHER A CLAIM JUSTIFIES INVESTIGATION?

A key factor in determining whether plaintiff has just cause of action for filing a lawsuit under Sarbanes-Oxley is proximity. "Normally the burden is satisfied, for example, if the complaint shows that the adverse personnel action took place shortly after the protected activity, giving rise to the inference that it was a factor in the adverse action" (OSHA Interim Rule, 2003).

WHAT FACTORS CONTRIBUTE TO WHITLEY'S FILING SUIT UNDER SARBANES-OXLEY?

Whitley filed suit in Georgia, an employment at-will state, which means that employees can be fired only if they are under contract or for a specific cause of action such as discrimination. As a result, Georgia law provides no specific protections to whistleblowers who aren't public employees. Employees who report accounting fraud within the company can be fired without employers violating any state or federal law.

DOES THE SARBANES-OXLEY ACT APPLY ONLY TO PUBLICLY TRADED COMPANIES OR DOES IT PROTECT EMPLOYEES OR PRIV ATE COMP ANIES AS WELL?

One issue in filing lawsuits under Sarbanes-Oxley is the law's requirement that, to qualify for protection, an informant must be revealing violations that affect "shareholder value" (Holsendolph, 2003). Since small private companies are not owned by shareholders, they are not subject to the law.

However, there is concern that regulations similar to those in Sarbanes-Oxley will cascade into private companies (Carbasho, 2003). Even though the law does not apply to them, many employees of these small companies are taking note of the law and feeling its "good governance influence" (Hoffman, 2003). In fact, it is predicted by some analysts that a wave of small public companies are going private as a result of the financial burdens of complying with Sarbanes-Oxley (Sams, 2003).

WILL IT BE HARDER NOW FOR EMPLOYERS TO FIRE EMPLOYEES?

According to some legal experts, the Sarbanes-Oxley Act may add to the complaint that it is hard for companies, even those that are not publicly traded, to fire under-performing employees. An employee who is performing badly and knows he is going to be fired might report some type of fraudulent scheme taking place at the company.

The Sarbanes-Oxley Act prohibits him from being fired because he assisted in or provided information about anything that might be considered securities fraud. The employee doesn't have to be right about the information. He only has to "reasonably believe" that a securities law is violated. IF the employee is successful, the Act permits the employee who files the successful lawsuit to seek reinstatement, back pay with interest, other make-whole damages, plus court costs and attorney fees (Brown, Davis, Wade, 2002).

According to some legal experts, however, whistleblowers who sue private employers as a result of being fired for disclosing wrongdoing rarely win their cases. The reason is because "there must be specific proof that a worker was fired, demoted, threatened, harassed, or discriminated against for providing information of alleged wrongdoing; and it is often difficult to prove that an employer's principal motivation for termination was whistle blowing" (Luke, 2003).

CAN AN INDIVIDUAL FILE UNDER SARBANES-OXLEY FOR WHISTLEBLOWER PROTECTION IF THE INCIDENT CITED OCCURRED PRIOR TO THE PASSAGE OF THE SARBANES-OXLEY ACT OF 2002?

On March 3, 2003, a U.S. Department of Labor Administrative Law Judge issued the first decision under the Sarbanes-Oxley Act in Gilmore v. Parametric Technology Corp. Because the incident had occurred prior to the passage of the law, the administrative law judge recommended against retroactive application of the employee protection provision to "conduct occurring before the Act became law" (Lewis, 2003).

IS COCA-COLA BEING SUBJECTED TO EXTENSIVE CRIMINAL INVESTIGATION AS A RESULT OF THE WHITLEY ACCUSATIONS? HAS COKE EVER GONE THROUGH SUCH SCRUTINY PRIOR TO THE WHITLEY V. COCA COLA LAWSUIT?

As a result of Whitley's lawsuit, the U.S. Securities and Exchange Commission is conducting its own inquiry, and a Justice Department is looking into a criminal investigation of Coke as well (Leigh, 13 July 2003). The last time Coke dealt with a major lawsuit was in 1989, when prosecutors looked at charges that Coke bribed officials in the Soviet Union. Coke was exonerated in that case after a months-long probe (Leith, 7 Aug 2003).

WHY HAS WHITLEY TAKEN HIS CASE TO THE PUBLIC?

Whitley and his attorneys recognize that whistleblowers who sue private employers have not generally prevailed in the past. "Public companies like Coca-Cola have a very; heightened sensitivity to these kinds of allegations. Plaintiffs' lawyers, when dealing with public companies, have long understood that properly invoked stories in the public media can be enormously helpful in achieving the result they are trying to achieve" (Luke, 2003).

HOW MANY CASES HAVE BEEN FILED UNDER SARBANES-OXLEY SINCE IT HAS GONE INTO EFFECT?

According to OSHA statistics, as of August 18, 2003, OSHA had received 122 complaints and completed 59 of them. Of these 59, 9 were withdrawn, 40 were dismissed, 9 were settled (including Whitley v. Coca-Cola), and 2 were found in favor of the complainant. Thus far, none of the decisions of an administrative law judge has been heard on the merits; all have been dismissed on technicalities. At least two cases have been filed in federal district court because OSHA did not issue a final rule within the required 180 days.

HAS A WHISTLEBLOWER EVER BEEN SUCCESSFUL IN HIS LAWSUIT AGAINST A PUBLICLY-TRADED COMPANY?

According to the *Atlanta Journal* (5/21/03), one whistleblower who prevailed in a case that preceded Sarbanes-Oxley was Marvin Hobby. Georgia Power reinstated the executive and paid him about $4 million after a 12-year whistleblower case. Hobby had been fired after he reported alleged safety concerns at the company's nuclear power plants. A three-judge panel of the 11th Circuit Court of Appeals upheld a U.S. Labor

Department administrative review board's order in 2001 that Hobby be given his job back. This case, however, was prior to the passage of the Sarbanes-Oxley Act of 2002.