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'Google Her Name': Disney Case Spotlights Danger, Roadmap for Whistleblowers

Attorney James Sallah said if true, the allegations in the complaint, specifically of accounting fraud and deficiency of internal controls, could be the basis of federal securities law violations if they made their way into public documents and are known internally to be inaccurate.

By Michael A. Mora | February 17, 2021



Entrance Arch of Walt Disney Theme Parks at Lake Buena Vista area, Orlando, Florida.

Sandra Kuba, a senior financial analyst who has been with The Walt Disney Co. for nearly two decades, reported billions of dollars of alleged financial irregularities, and accused the financial arm of the publicly-traded entity of harassment and retaliation after she spoke out.

And now attorney James Sallah, partner at Sallah, Astarita & Cox in Boca Raton and former senior counsel in the U.S. Security and Exchange Commission in Miami, said if Kuba's allegations are true, the whistleblower complaint effectively laid out a blueprint to bring these types of cases to court.

“For the whistleblower, keep advancing if the first level of management doesn’t listen. Here you have her sending an email to the president of Walt Disney World Resort laying out her concerns, having been ignored,” said Sallah, who is not involved in the litigation. “Go to a board member, go to the audit committee, and if no one will listen, you can always report it to the regulators, like the SEC, if it is a reported company that files with the SEC.”

‘False revenue’?

Kuba, the plaintiff, worked in the revenue operations department as a senior financial analyst for Disney Financial Services LLC, a subsidiary of the publicly-traded Walt Disney Company, according to the complaint filed in the U.S. District Court for the Middle District of Florida.

And Kuba, a certified public accountant, has been working for the Walt Disney financial arm since 1999, in which she has received positive comments in performance evaluations, her complaint states.

In the complaint, Kuba claimed to express concerns over the years about policies, practices and procedures that she held were “unethical, improper or illegal” to Disney’s management, only to suffer from alleged “harassment, hostility and retaliation as a result.”

Her attorney, Stuart Meissner, pointed to Kuba reporting \$3 billion in false revenue between 2016 through 2017, with most of the capital consisting of coupon or gift card fraud as the reason for her firing. She is also represented by Frank Malatesta, who has a private practice in Venice.

Now, Sallah opined that if true, the allegations in the complaint, specifically of accounting fraud and deficiency of internal controls, could be the basis of federal securities law violations if they made their way into public documents and are known internally to be inaccurate.

He added that Kuba’s reporting might fall under the protection of the Sarbanes–Oxley Act and the Whistleblower Protection Act.

While it was not clear who represents Disney in the lawsuit, Sallah speculated the defendant might justify the firing by saying the company initiated an internal investigation in which it indicated that Kuba’s claims were false. Another potential defense: Disney might argue that Kuba’s complaints were not valid or made in good faith, or she could not perform the duties that fall under the responsibilities of her job.

Read the complaint:

Case 6:21-cv-00312 Document 1 Filed 02/16/21 Page 1 of 16 PageID 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SANDRA KUBA,

Plaintiff,

CASE NO.: 6:21-cv-312

v.

DISNEY FINANCIAL
SERVICES, LLC,Defendant.
_____ /**COMPLAINT AND DEMAND FOR JURY TRIAL**

The Plaintiff, SANDRA KUBA ("Plaintiff"), by and through her undersigned counsel,
hereby files this Complaint against the Defendant, DISNEY FINANCIAL SERVICES, LLC
("Defendant" or "D _____") as follows:

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'Unfortunately for whistleblowers'

Scott L. Silver, the managing partner at Silver Law Group in Boca Raton, said what is unique about the scenario Disney finds itself in is the company tried to negotiate behind closed doors for about two years under a tolling agreement, which "obviously didn't work."

Silver also said that Kuba was allowed to file her allegations anonymously under the terms of the whistleblower law. But the former Disney employee decided to publicly file the case and may have inadvertently blackballed herself from future employment.

"Unfortunately for whistleblowers, what should be recognized as people stepping up for the right thing, frankly results in being unhirable by future employers," Silver said. "Many whistleblowers chose, even if they are no longer staying at the company when they reported misconduct, to remain anonymous in hopes of future employment. Now when you google her name, this will always be the top story that will come up."

Read more:

Jackson Health System Dodges Whistleblower Complaint Involving Inmate Deaths
(<https://www.law.com/dailybusinessreview/2021/01/06/jackson-health-system-dodges-whistleblower-complaint-involving-inmate-deaths/>)

Shake-A-Leg Miami Accused of Retaliation, Misuse of Donor Funds in Alleged Whistleblower Suit
(<https://www.law.com/dailybusinessreview/2020/10/23/shake-a-leg-miami-accused-of-retaliation-misuse-of-donor-funds-in-alleged-whistleblower-suit/>)

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