

LAW

Alyeska Settles Suit by a Whistle-Blower

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Alyeska Pipeline Service Co. agreed to a multimillion-dollar settlement of an invasion-of-privacy lawsuit by a whistle-blower, stemming from a spying campaign that Alyeska mounted against him.

The outcome was hailed by whistle-blower advocates as an important legal victory for corporate critics, in part because of several pretrial rulings by federal Judge Stanley Sporkin in Washington that appear to establish or advance precedents bolstering protections for those who report corporate wrongdoing.

Precise terms of the settlement were not disclosed. But Alyeska and its owners, including Exxon Co., British Petroleum Ltd. and Atlantic Richfield Co., have spent more than \$10 million just to defend the suit, and the settlement requires a payment of millions more, according to people familiar with it.

The suit stemmed from the elaborate campaign that Alyeska mounted against whistle-blower Chuck Hamel and his associates in 1990, after Mr. Hamel repeatedly had tipped off regulators and Congress about alleged environmental wrongdoing along the Trans-Alaska pipeline. Mr. Hamel received much of the information from workers inside Alyeska, which runs the pipeline for the oil companies.

Alyeska doesn't contest that during its campaign against Mr. Hamel, its operatives secretly taped Mr. Hamel's phone calls and rifled through mail, garbage, phone records and credit records of him and several associates. They even employed attractive female operatives to try to entice Mr. Hamel into admissions or actions that might discredit him. But the company has claimed that the actions were lawful and legitimate attempts to retrieve documents it alleges Mr. Hamel stole from the company.

Alyeska said that it and other parties to the settlement aren't "conceding any wrongdoing."

In a ruling last month that helped grease the settlement, Judge Sporkin noted that whistle-blowers are often retaliated against by their employers and held that Mr. Hamel could not be required to divulge his sources unless Alyeska agreed to guarantee those sources lifetime employment. Alyeska declined, and the sources weren't disclosed. Whistle-blower advocates say Judge Sporkin is the first federal judge—and perhaps the first judge at any level—to insist on such protections for sources.

Moreover, two weeks ago, Judge Sporkin advised attorneys in the case that he intended to rule that the secret taping of

Mr. Hamel was illegal—a devastating blow to Alyeska's defense. Although that ruling was never formalized, it also was seen as potentially limiting the kinds of activities that companies may be willing to engage in to ferret out critics.

"Judge Sporkin's rulings will reverberate in whistle-blower cases for years," said Louis Clark, executive director of the Government Accountability Project, a whistle-blower legal support group. "He has said a company must in effect post a bond to protect whistle-blowers from retaliation if they want to learn their identities through legal action."

In comments after the settlement was entered in federal court, Judge Sporkin observed: "No one should be subjected to the kind of treatment the Hamels were." Earlier in the proceedings, Judge Sporkin had described the details of Alyeska's spy operation against Mr. Hamel as "horrendous" and "reminiscent of Nazi Germany."

Wackenhut Corp., the Miami-based security concern that ran the spy campaign for Alyeska, was included in the settlement and will be required to help fund it. Mr. Hamel is not enjoined from future whistle-blowing against Alyeska, though he did agree to relinquish certain types of documents should they fall into his hands in the future.

The affair had its roots in the early 1980s, when Mr. Hamel, an oil broker by trade, got involved in a business dispute with Alyeska that he says cost him millions of dollars. Mr. Hamel then began funneling tips about Alyeska's alleged environmental wrongdoing and internal Alyeska documents to regulators and Congress, and eventually accumulated a sizable network of whistle-blowers within Alyeska.

In 1990, in an effort to stop Mr. Hamel, Alyeska hired Wackenhut to set up a bogus environmental organization called Ecolit. It offered to help Mr. Hamel pursue litigation against the oil industry, but the real purpose, Alyeska has acknowledged, was to gather evidence supporting the allegation that he had stolen documents.

The operation was shut down after seven months by Alyeska's owner oil companies. A subsequent congressional investigation concluded that the operation may have violated criminal laws and asked the Justice Department to look into the matter. So far, the Justice Department has decided not to pursue any criminal charges stemming from the case.

From the start of the case, Judge Sporkin repeatedly urged Alyeska to consider settling. He sparred with defense lawyers and chided them for refusing to enter settlement talks. At one point, he threatened to find Robert Jordan—lead counsel for the defense and a former head of the Washington bar—in criminal contempt because of a brief Mr. Jordan submitted criticizing Judge Sporkin.

In October, Judge Sporkin ruled against a defense motion seeking to compel a newspaper reporter to divulge sources.

Although courts commonly protect reporters' sources, they don't always do so, and whistle-blower advocates say this ruling was significant, because the information sought by Alyeska was important for its defense. This ruling was followed by the one protecting Mr. Hamel's sources within Alyeska.



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