

Parties

1. Plaintiff, Kevin O'Rourke, is a resident of Florida, and is a former employee of Defendant Holtec.

2. Defendant HIC was, at all times relevant herein, a private corporation operating in the State of New Jersey with its main business address at 1 Holtec Boulevard, Camden, New Jersey 08104.

3. Defendant HIPD was, at all times relevant herein, a private corporation operating in the State of New Jersey with its main business address at 1 Holtec Boulevard, Camden, New Jersey 08104. HIPD was, at all times relevant herein, a wholly owned subsidiary of Defendant HIC.

4. Defendant Krishna Singh was, at all times relevant herein, a resident of the State of New Jersey, and a person liable for the reasons stated below.

5. Defendant John Does 1-5 and John Does 6-10, currently unidentified, are individuals or entities who, are liable on the basis of their conduct and are answerable to the Plaintiff for the acts set forth herein.

Factual Allegations

6. Defendants HIC and HIPD (hereinafter referred to together as "Defendants") hired Plaintiff on May 21, 2021, as the Chief Financial Officer ("CFO").

7. Defendants terminated Plaintiff on August 30, 2022.

8. Kelly Trice was Plaintiff's direct supervisor, and was the Executive Oversight of the Accounting & Finance Department at Defendants.

9. Trice's supervisor was Defendant Singh, who was the President and Chief Executive Officer ("CEO") of Defendants.

10. On Sunday August 21, 2022, Defendant Singh sent Plaintiff and other executives of Defendants, including Trice, a draft of an Investment Prospectus (document hereinafter referred to as the "Prospectus") that included financial projections for Defendants which were intended to be sent to a potential investor, Hyundai Engineering and Construction Co., Ltd. (hereinafter referred to as "Hyundai").

11. Defendant Singh wrote the Prospectus, however it listed Plaintiff as the "Document Sponsor".

12. Defendant Singh stated he wanted the Prospectus, including financial projections, to be finalized and completed by Friday August 26, 2022, which was five days later.

13. Plaintiff forwarded Defendant Singh's communication to Trice with a comment that the two of them needed to discuss this matter.

14. The next day, August 22, 2022, Trice sent Plaintiff financial projections for entities of Defendants which he was responsible for, to be included in the Prospectus.

15. Plaintiff responded to Trice and stated they needed to discuss the Prospectus because the financial projections could not possibly be completed accurately in the timeframe demanded by Defendant Singh, the document included numerous false and misleading statements, and legally the document could not contain "make believe" or unsupported financial projections.

16. Plaintiff had a meeting with Trice later that day and stated he wanted to be removed as the "Document Sponsor", he would not participate in compiling rushed financial

projections due to the likelihood of material errors, and he would not present the Prospectus to Hyundai if it included what he believed to be materially false or fraudulent data or information.

17. The next day, August 23, 2022, Plaintiff marked up the Prospectus with notes about statements in the document that he thought were materially false or misleading.

18. Plaintiff sent the marked-up Prospectus to Defendants' Senior Business Development Engineer, Kaylyn Roucher and Singh's Executive Assistant, Erika Grandrimo.

19. Later that day, at the request of Singh, Plaintiff had a meeting with Singh, Roucher and the Vice President of Finance, Martin Babos, to discuss the Prospectus.

20. During the meeting, Plaintiff expressed his concerns about several aspects of the Prospectus.

21. Plaintiff's objections to the Prospectus included, but were not limited to:

- a. There was a statement that Holtec never violated any covenant. Plaintiff was aware that Defendants were currently in violation of a debt covenant.
- b. There was a statement that Defendants never had any long-term debt. This statement was repeated several times in the document, and Plaintiff believed it to be untrue.
- c. There was a statement that not more than 10 percent of Defendants' annual revenue was derived from any one customer and Plaintiff knew it to be untrue.
- d. There was a statement that Defendants had internally developed software worth in excess of \$225 million. Plaintiff believed that evaluation of the software was both arbitrary and grossly exaggerated and that in his opinion the software had a market value of near zero dollars.
- e. The Prospectus grossly overvalued Defendants' manufacturing facilities.

- f. The Prospectus grossly overstated the amount of money spent annually on research and development costs.
- g. The Prospectus misrepresented a statement about self-financing a \$300 million manufacturing facility build, when in fact Defendants raised the money by selling state tax credits.
- h. The entirety of part two of the Prospectus contained projections that were materially false and/or were completely unattainable and unrealistic.

22. One example of the misleading projections related to the Consolidated Interim Storage Facility (“CISF”).

23. According to Defendants’ own internal projection, the CISF would lose \$150 million per year for the next five years.

24. However, Singh stated he wanted to represent in the Prospectus that the CISF would “break even” during that period of time and asked that Plaintiff do so.

25. Another example of misleading projections involved a business venture, Applied Photonix.

26. The deal involving Applied Photonix was not even finished, and the entity did not have any sales.

27. However, Singh stated the Prospectus should represent that Applied Photonix would have projected annual sales of \$100 million within five years, a projection not based on any factual information.

28. After Plaintiff objected to portions of the Prospectus, Singh stated, “Oh Kevin, you are just an Accountant, you don’t know anything about business and finance.”

29. Singh said that it was clear Plaintiff was not going to be useful for the Prospectus.

30. Singh dismissed Plaintiff from working on the Prospectus and asked Plaintiff to leave the meeting.

31. Plaintiff stated he understood and got up and left the meeting.

32. Later that day, Singh called Plaintiff and left a voice message wherein he stated there was no need for Plaintiff to be involved in the Prospectus going forward.

33. Defendant Singh stated: "As far as the financial transactions with third parties is concerned, I will not, as I said in the meeting, I will not involve you. You can focus on the big challenges you have in accounting and the statements and so on."

34. Despite this statement by Singh, Plaintiff was later included in discussions regarding the Prospectus.

35. On Saturday August 27, 2022, Babos sent an email correspondence to Plaintiff, stating he wanted to add Hyundai to the Share Vault maintained by the Defendants, which would allow Hyundai to view certain documents added by Defendants.

36. Those documents included the Prospectus.

37. Babos requested that Plaintiff tell him which employee under Plaintiff's supervision could provide Hyundai access to the Prospectus via Share Vault.

38. The next day, on Sunday August 28, 2022, Plaintiff responded to Babos, copying Trice, that he believed submitting the Prospectus as currently drafted to the Share Vault for Hyundai to view could violate the law, and he would not direct any employee of Defendants to submit the Prospectus.

39. Plaintiff made this statement because the Prospectus included false information about the company as outlined above.

40. Plaintiff was included on a group email from Defendant Singh's Executive Assistant dated August 28, 2022, regarding the Prospectus.

41. The email participants included, but were not limited to, Plaintiff, Singh, Trice, Babos and Ron Gillette, Defendants' Chief Accounting Officer.

42. The same day, Plaintiff sent an email to Trice wherein he stated he believed numerous statements in the Prospectus were false and misleading and that there was a high likelihood the financial projections included in the Prospectus were materially inaccurate.

43. Shortly thereafter, Trice responded via email to Plaintiff wherein he stated that he would have Babos handle providing the Prospectus to Hyundai via Share Vault.

44. Trice further stated since Plaintiff raised concerns regarding the legality of Prospectus, he would refer that matter to Scott Thompson, Defendants' Chief Governance Officer, to perform an independent review.

45. Shortly thereafter, Will Gill, Defendants' Corporate Counsel, responded to Trice wherein he stated that he thought outside securities counsel should review the Prospectus to give an assessment and that he had someone in mind to do it and would be happy to coordinate doing so.

46. Despite this representation, Plaintiff was never contacted by Defendants' Governance Officer nor outside counsel about the legal concerns he reported about the Prospectus.

47. Furthermore, Plaintiff was never informed of any review conducted by Defendants' Governance Officer nor outside counsel about the Prospectus, after Trice's comments.

48. Later that day, Plaintiff noticed Trice and then Babos had removed Plaintiff from a meeting to discuss the Prospectus and a meeting scheduled to meet with representatives from Hyundai, both of which were scheduled for the morning of Monday August 29, 2022.

49. Defendant Singh also cancelled his weekly accounting/finance call that included Plaintiff, which was scheduled for August 30, 2022.

50. On August 30, 2022, Plaintiff worked remotely.

51. Plaintiff noticed that day he was locked out of his emails on his work computer and phone.

52. Plaintiff called Jack Johnson, Defendants' Corporate Director of Human Resources, who notified Plaintiff that Defendants fired Plaintiff as of that day.

53. Plaintiff told Johnson he would come to Defendants' facility to return any of Defendants' property in his possession.

54. When Plaintiff arrived, Plaintiff provided Johnson with documents, his computer and his security pass and asked Johnson why Defendants terminated him.

55. Johnson stated Defendant Singh had a loss of confidence in Plaintiff.

56. Plaintiff responded by asking Johnson if Defendants lost confidence in him because Plaintiff told them they were violating the law.

57. Plaintiff then stated that he did not want to start a debate with Johnson, said goodbye and left.

Legal Claims

58. In objecting to false statements included in the Prospectus, Plaintiff engaged in protected activity pursuant to CEPA by objecting to and refusing to participate in activities,

policies and practices which he reasonably believed were in violation of a law, a rule or regulation promulgated pursuant to law or were criminal or fraudulent activity.

59. In particular, the Securities Act of 1933 makes it unlawful for a company to sell or offer a security by means of a prospectus that includes an untrue statement of material fact or omits a material fact necessary to make such statements not misleading.

60. Furthermore, New Jersey criminal law, N.J. Stat. § 2C:21-7, makes it unlawful to make a false or misleading written statement for the purpose of promoting the sale of securities, or omit information required by law to be disclosed in written documents relating to securities.

61. As such, Plaintiff engaged whistle blower conduct when he objected to, reported and refused to participate in providing a Prospectus to a prospective investor that included false and misleading statements and financial projections.

62. Subsequent to Plaintiff engaging in this whistle blower conduct, Plaintiff was subjected to adverse employment actions including, but not limited to, being terminated from his employment.

63. A determinative or motivating factor in the adverse employment actions taken against Plaintiff was the fact that Plaintiff disclosed, objected to and refused to participate in the activities outlined above.

64. Defendants' conduct was intentional, purposeful, willful and egregious retaliation which was either directly performed by members of upper management or members of upper management were willfully indifferent to the conduct, making punitive damages warranted.

65. The fact that Plaintiff was directly retaliated against as a result of having engaged in protected conduct under CEPA entitles Plaintiff to claim compensatory and punitive damages under CEPA as set forth below.

66. As a result of Defendants' conduct, Plaintiff has been made to suffer both economic and non-economic harm.

67. Individual Defendant Singh is liable as the individual who made the decision to terminate Plaintiff from his employment.

COUNT I

CEPA RETALIATION

68. Plaintiff hereby repeats and realleges the above paragraphs as though fully set forth herein.

69. Plaintiff engaged in protected whistleblower conduct as outlined above.

70. Subsequent to Plaintiff engaging in whistleblower conduct, Defendant terminated Plaintiff's employment because of his whistleblower conduct.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, including emotional pain and suffering, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstated, equitable instatement or promotion, and any other relief the Court deems equitable and just.

COUNT II

CEPA RETALIATION as to SINGH

71. Plaintiff hereby repeats and realleges the above paragraphs as though fully set forth herein.

72. Plaintiff engaged in protected whistleblower conduct as outlined above.

73. Subsequent to Plaintiff engaging in whistleblower conduct, Defendant terminated Plaintiff's employment because of his whistleblower conduct.

74. Defendant Singh is individually liable as the individual who retaliated against Plaintiff because he engaged in whistleblower conduct.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, including emotional pain and suffering, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstated, equitable instatement or promotion, and any other relief the Court deems equitable and just.

75. Plaintiff requests the following equitable remedies and relief in this matter:

- a. Plaintiff requests a declaration by this Court that the practices contested herein violate New Jersey law as set forth herein.
- b. Plaintiff requests that this Court order the Defendant to cease and desist all conduct inconsistent with the claims made herein going forward, both as to the specific Plaintiff and as to all other individuals similarly situated.
- c. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the Plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the Plaintiff.
- d. Plaintiff requests that the Court order the Defendant to alter its files so as to expunge any reference to which the Court finds violates the statutes implicated herein.
- e. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

Dated: June 1, 2023

DEMAND TO PRESERVE EVIDENCE

1. All Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to Plaintiff's employment, to Plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.
Attorney for Plaintiff

Dated: June 1, 2023

JURY DEMAND

Plaintiff hereby demands a trial by jury.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

DESIGNATION OF TRIAL COUNSEL

Drake P. Bearden, Jr., Esquire, of the law firm of Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, P.C. is hereby designated trial counsel.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

Dated: June 1, 2023