Sarbanes-oxley whistleblower

Catherine Zulfer, a former employee of playboy filed a suit against them alleging that Playboy Enterprises violated provisions of the Sarbanes-Oxley Act of 2002. The former employee reports that playboy retaliated against her for refusing to participate in fraudulent activity against Playboy’s shareholders (Katz, Marshall& Banks, LLP, 2013). Without receiving permission from the board of directors, Christopher Pachler, Chief Financial Officer, instructed Zulfer to gather one million dollars in bonuses for various corporate officers of the company.

At that time Zulfer felt that Pachler was attempting to embezzle themoneyfrom the company, therefore she denied the request until it was approved by the board. Zulfer then informed Playboys General Counsel and the Securities and Exchange Commission of the request that was made by Pachler. Soon after Zulfer made the report, she claims that retaliation against her began. She was excluded from company meetings and discussions, crucial information to her position was withheld from her, and her accounting staff was diminishing (Katz, Marshall & Banks, LLP, 2013).

On December 31, 2011 Zulfer was terminated, although Playboy describes it as a layoff. Issue: Did Playboy violate the whistleblower-protection provisions of the Sarbanes-Oxley Act of 2002 (“ SOX”)? Rule: The Playboy Company retaliated against Zulter for refusing to participate in fraud regarding the playboy shareholders. Under the Sarbanes-Oxley Act of 2002, (SOX) one rule prohibits any employer from retaliation against and employee. Another rule is that under this law employees are protected when they speak of a wrongdoing within the workplace.

“ Under SOX, employers are strictly prohibited from retaliating against employees who report illegal or unethical conduct. Employees are also protected when making disclosures about shareholder fraud or violations of SEC rules and regulations. ” (Halunen, p. 1, Para. 1) Analysis: Append reflection Zulter dismissal was retaliation against her by the playboy company, because she reported and activity of fraud with the playboy shareholders.

In this case, Zulter was continually excluded from meetings and discussions, withholding crucial information she needed to carry out her corporate accounting responsibilities, and eliminating corporate accounting staff. Conclusion: In the end, the courts dismissed playboy’s argument reaffirming that under the bylaws of (SOX) employees are protected from employees from retaliation for reporting violations of “ any rule of regulation of the SEC.

Zulfer was protected under the SOX Act, whistle-blower‘ s of publicly traded companies are protected. Employers are not supposed to retaliate or discriminate against employees in the terms and conditions of their employment. The plaintiff provided information regarding violations the company was participating in; the violations that can be of a federal fraud statute, a rule or regulation of the SEC, or a provision of Federal law relating to fraud against shareholders.

The team agrees that Zulfer was protected under the Act and that the Act is there to bring forth more white collar crimes that would not otherwise be disclosed if the was not there to protect and compensate. SOX promotes honesty without fear, the whistle-blower provisions of the SOX Act provides a general framework for ensuring that employees (including attorneys and auditors) disclose information which may harm investors.