Bus law case

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The Sarbanes-Oxley Act of 2002 The Sarbanes-Oxley Act (SOXA) of 2002 is a United s federal law which stipulates the standards applicable to all public company boards and management as well as public accounting firms. The act has eleven titles which constitutes corporate board responsibilities, auditor independence, enhanced financial disclosure, corporate governance, internal control assessment and criminal penalties inter alia (Cheeseman 512-524). Thus, the core purpose of the SOXA is to protect and enhance security markets in the United States.

The first case is that of Carnero v. Boston Scientific Corp., 433 F. 3d 1, US Court of Appeals, First Circuit, (2006). Ruben Carnero was an Argentine, and an employee of Boston Scientific Argentina as well as Boston Scientific Brazil prior to his termination in August 2002. the termination prompted him to seek statutory severance under Argentine and Brazilian law. Also, he brought a whistleblowing claim involving the value of stock option as stipulated under SOXA. Carnero asserted that SOXA was aimed at safeguarding domestic securities against improper accounting practices. Thus, the whistleblower protection was to extend outside the U. S to enhance effectiveness. To counter this, BSC quoted the legislative history of the Sarbanes-Oxley act which was inclined to domestic issues relating to the Enron scandal. On this grounds, BSC held that there lacked sufficient basis to overcome the presumption against application of the Sarbanes-Oxley statute outside the U. S. territories (Hartman and Cheeseman 287-291).

The court therefore dismissed the whistleblowing claim which Carnero brought against the Boston Scientific Corporation. From this decision, it is discernible that foreign workers cannot sue under the Sarbanes-Oxley Act whistleblower provisions. Apparently, the decision implies that the

whistleblowing protections are not applicable to foreign citizens who are working beyond the U. S territories for foreign subsidiary companies covered by the Sarbanes-Oxley Act. This ruling does not seem to frustrate the SOXA as it does not apply extraterritorially.

In Collins v. Beazer Homes USA Inc., 334 F. Supp. 2d 1365, 2004 U. S. Dist. LEXIS 18374 (ND Ga. 2004) the plaintiff, Collins was relieved of her duties as a director of marketing after she complained about specific marketing and various other decisions. In this case, the court held that Beazer lacked clear evidence that would have Collins fired (Hartman and Cheeseman 281-287). This decision too, does not seem to thwart the SOXA act.

With regards to OMahony v, Accenture Ltd. 537 F. Supp. 2d 506-Dist. Court, SD N. Y. 2008 the court permitted the whistleblower under the SOXA to bring claims in the U. S. despite the employee being a non-citizen of the U. S. In spite of the general American Law principle which limits the application of legislations domestically, the Court in this case applied the SOXA statute extraterritorially.

O'Mahony, an Irish origin, was an employee of Bermuda's subsidiary company in France. She was demoted and her remuneration scanted when she declined to yield to the company's global finance controller's demand of failing to make social security and concealing her length of residence in France. The court however held that she was protected under the SOXA because the decisions appertaining to her case were made in New York. This decision tends to be aligned with SOXA (Hartman and Cheeseman 293-295).

In conclusion, the three cases analyzed seen to be in line with the SOXA. Thus, there are no major frustrations of the Sarbanes-Oxley Act.

Works Cited

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