

Public Safety

Ex-Justice Dept. lawyer offered to sell secret U.S. whistleblower lawsuits to targets of the complaints

By **Spencer S. Hsu** January 25

Jeffrey Wertkin had a plot to bring in business and impress his new partners after joining one of Washington's most influential law firms.

As a former high-stakes corporate-fraud prosecutor with the Department of Justice, he had secretly stockpiled sealed lawsuits brought by whistleblowers. Now, he would sell copies of the suits to the very targets of the pending government investigations — and his services to defend them.

Wertkin carried out his plan for months, right up until the day an FBI agent arrested him in a California hotel lobby.

The 41-year-old partner at Akin Gump Strauss Hauer & Feld in the District was caught wearing a wig and fake mustache trying to peddle a sealed federal lawsuit for \$310,000 to a Silicon Valley technology company. “My life is over,” he told the undercover agent after his arrest at an intended cash drop at the Cupertino hotel.

How Wertkin morphed from a leading Justice Department fraud litigator to well-paid white-collar defense lawyer to a confessed felon is not fully revealed in court files, and his transformation still confounds several associates who worked with him on federal

cases and recalled him as conscientious and dedicated.

His sentencing is scheduled for March in San Francisco.

Wertkin has admitted hawking sealed files he spirited out of the Justice Department's civil-fraud division where he worked for six years until 2016. He walked out, court records state, with files for cases to which he had not been assigned, raising questions about how the department polices its attorneys and the possible damage to investigations aimed at recovering millions of dollars for taxpayers.

Before his sentencing, Wertkin has promised to meet with Justice Department supervisors to tell them how he managed to steal sensitive documents without being detected. The pledge is part of his plea deal on charges of obstructing justice and transporting stolen property when he took a file from Washington to California for a sale before he was caught last January.

When he gathered up the cases in his last month on the federal job in April 2016, "I knew and understood that doing so was an illegal theft of the complaints and, during my exit process, I intentionally lied to the Department of Justice about taking the complaints with me," Wertkin said in court at his plea hearing.

Exactly how many cases he stole or what he did with all of the information remains murky, but Wertkin was clear in his 10-page plea agreement about why he did it: "I began secretly reviewing and collecting complaints to identify clients to solicit for business when I was in practice and, thereby, to make myself more successful at Akin Gump."

And he did not dally trying to drum up clients after joining the firm in mid-April 2016, court statements show.

Apart from the Sunnyvale-based technology security provider, Wertkin said he tried to sell a second sealed lawsuit last January to a company headquartered in Oregon after first mailing an employee a redacted copy of the cover sheet in the federal case to show he had the real goods to offer. He also said he used information in an undisclosed number of sealed complaints "to improperly solicit" more business, managing in one case to convince a company "to retain my services as an attorney to represent it in its lawsuit."

After his arrest last Jan. 31, Wertkin returned to Washington to clean out his Akin Gump office near Dupont Circle, where he removed and destroyed electronic and paper copies of other stolen cases “that I knew could further incriminate me,” he said in plea papers.

Wertkin’s defense team, led by Cristina C. “Cris” Arguedas, whose cases have included O.J. Simpson’s defense on double-murder charges in 1995, said Wertkin had no comment on the case and referred to the defense lawyers’ public statement issued after his plea. That statement said: “Jeff has led a hard-working and honorable life for many years. In a lapse of judgment, he made bad choices. He takes full responsibility and is doing his best to make amends.”

No company that Wertkin approached is named in filings in his criminal case, although two lawsuits whose details he tried to sell were described as pending before the U.S. District Court for the Northern District of California.

Spokesmen for the Justice Department and U.S. attorney’s office for Northern California said they could not comment beyond court pleadings “in this ongoing litigation.”

At the Justice Department, where he started working in December 2010, Wertkin’s assignments included cases that often result in multimillion-dollar corporate paybacks to the government after whistleblowers — who can receive part of recovered funds — tip off investigators to fraud in federal services and contracts.

Known as qui tam lawsuits under the False Claims Act, the cases are brought under seal to protect the investigations and the whistleblowers. There were 702 qui tam actions filed in 2016, and the Justice Department recovered \$4.7 billion under the law, it reported.

Wertkin “led more than 20 major fraud investigations” at the department, Akin Gump said when it announced his hiring.

In violating that secrecy, Wertkin may have done “irreparable harm” by scaring off future whistleblowers, said Nola J. Hitchcock Cross, a managing attorney at the Cross Law Firm of Milwaukee, who worked with a whistleblower in one of Wertkin’s federal fraud cases.

“Any whistleblowers will not bring fraud to the government’s attention through the False Claims Act if they are influenced by Mr. Wertkin’s conduct and fear that their identity will not, in fact, remain under seal during the government’s investigation,” Cross said. “Every time a potential whistleblower hesitates to bring fraud to the government attention, the taxpayers suffer a potential loss, often in the hundreds of millions of dollars.”

The Justice Department has not said what damage Wertkin’s actions may have caused or how it is assessing his impact. But in responding to a Senate Judiciary Committee inquiry about Wertkin’s case after his arrest, then-acting Assistant Attorney General Samuel R. Ramer wrote that the department was not aware of any accusations of misconduct by Wertkin while he worked there and that its Office of Professional Responsibility had no record of any complaints.

Benjamin J. Harris, a spokesman for the Akin Gump firm, said in a statement: “The firm worked to protect its clients’ interests throughout this matter. Mr. Wertkin’s conduct was reprehensible, and when that conduct was revealed, Mr. Wertkin’s position at the firm was immediately terminated. Consistent with its ethical duties, the firm has cooperated with the government’s investigation.” Akin Gump has more than 900 lawyers worldwide and since 2014 has ranked as Washington’s top-earning lobbying firm.

Wertkin, the son of a surgeon and a registered nurse in the affluent New York City suburbs, graduated from Haverford College in 1998 and earned a law degree and a master’s degree in government from Georgetown University. He is married with a young son and a daughter.

In 2010, Wertkin left the Patton Boggs law firm to join the Justice Department. During his time at Justice, he also, for three years, taught a seven-week-long class on federal agency rulemaking as an adjunct professor at Georgetown University. He bought a condominium in Washington’s Dupont Circle neighborhood, which he used to secure his release on \$750,000 bond after his arrest.

Several of Wertkin’s former Justice Department colleagues did not respond to requests for interviews or said they could not comment on his case or its ramifications.

But people close to him say his crime is an aberrant act.

“On its face, it’s a breakdown,” said a legal colleague who asked for anonymity to avoid jeopardizing a friendship with Wertkin and his pending sentencing. “It’s hard to understand and it’s not understandable, because it doesn’t fit anything else in his life. He was an unusually straight arrow.”

“Wertkin has resigned from the bar,” the person said, and is “back to the guy he’s always been” and is spending time taking care of his children.

Months before Wertkin left the Justice Department, he was co-counsel in one of the most complex False Claims Act trials in recent history, a potentially groundbreaking and particularly difficult \$200 million case against AseraCare, a Texas-based for-profit hospice provider. Government lawyers were stunned when the judge set aside a jury verdict in their favor in a decision that raised new hurdles to future prosecutions.

James F. Barger Jr., a private lawyer from Birmingham, Ala., who represented the whistleblower in the case, called Wertkin “extremely dedicated, one of the hardest-working DOJ lawyers I ever met.”

“And the whole time I was with him, which I can’t count the number of hours, he displayed great integrity, and he had serious concern for the interests of the United States,” Barger said. “Why he did what he did, I don’t know.”

Wertkin pleaded guilty to two counts of obstructing justice by disclosing the two sealed lawsuits and to one count of interstate transport of stolen property.

The charges carry a statutory maximum of 20 years in prison, but in the plea agreement both sides reached, prosecutors would not seek a prison term of more than 30 to 37 months barring additional discoveries about Wertkin’s conduct.

He faces sentencing March 7 before U.S. District Judge Maxine M. Chesney in San Francisco.

Alice Crites contributed to this report

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seabridge 2 months ago

After his arrest, how was he allowed to go back to his office and destroy documents??? Why didn't law enforcement get in there, first?

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beemanrs 2 months ago

And now he can spend a few years working as a now-former attorney, helping fellow inmates with legal issues.

That's what he had planned all along, right? Or is he going undercover on the inside?

What a waste.

Like 1 Link Report



tmarkstamm 2 months ago

The Obama Administration's abuse of the False Claims Act should have been mentioned in this story. This Civil War era law has been dredged up for use as an extortion tool in a way that was never intended. It seems this guy's motives were less than pure, but anything that limits this abuse by the federal government is a positive. The buyers of this inside information may have seen their actions as one of the few ways to limit the outrageous misuse of this law by a business-hostile government with unlimited resources. It's self defense from the actions of the country's biggest bully.

Like Link Report



silence dogood13 2 months ago

New leader of the Trump legal team?

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superpinky 2 months ago *(Edited)*

“My life is over,”....yes, your weasley miserable greed driven life is deservedly over. Have fun sniveling your way through prison and working at McDonalds (or t rump) afterward. Oh, and try to think of the upstanding men and women you put in grievous danger. But I know...it's all about you...sniff

Like 1 Link Report



[unclear] 2 months ago



pentagon40 2 months ago

"Jeff has led a hard working and honorable life for MANY YEARS.".....What many years??? He's only 41 years old!!!!

And reading the sentencing guidelines, he will do no more than 36 months in jail.

Oh well, at least he's been disbarred, guess that counts towards the penalty...

Sure hope he wasn't married with a family.....

Like 2 Link Report



silence dogood13 2 months ago

Married with a young daughter.

Like Link Report



beemanrs 2 months ago

And a son.

Like Link Report



catorenasci 2 months ago

This is of a piece with the profound corruption of the Justice Department over the Clinton and Obama administrations that included the politicization of law enforcement and the virtual complete loss of what used to be basic professional ethics.

Draining the swamp may be well nigh impossible, but it needs to be done. Err on the side of firing more rather than fewer.

With a bureaucracy cut by 3/4, and concomitantly less regulation, there will be less value to buying bureaucrats.

Like 2 Link Report



beemanrs 2 months ago

"Profound corruption of the Justice Department over the Clinton and Obama administrations...."

How So? Please. Your proof?

You sound like a Trump MAGA, parroting the garbage spewed by the Orange Anti-Christ and his Merry Band of Thieves.

Why don't you try doing some research into the truth of the Trump garbage; learn to think for yourself? Go back at least 45 years. Check out his Russian and American mob connections. There's so much more, too, for your reading pleasure. What are you afraid of?

As for "Draining the swamp," Trump has proven to be "The Creature from the Black Lagoon" out from the reeking black ooze on the bottom.

How can you condone Trump's ongoing theft from taxpayers, including yourself?

Like  1 Link  Report 



6gy7 2 months ago

This is a truly egregious crime, and one that very few people would dare attempt to commit, even if they lacked the principles to refrain from acting in this way. He would essentially have to be assured that 100% of the corporate attorneys he solicited were criminally corrupt for his scheme to work. If he found even one ethical attorney, he was guaranteed to be turned in to the FBI.

In our system, DOJ can't pay its attorneys more than \$155,000 a year, I believe, and that salary doesn't go far in DC. You have to wonder how many people sell out the government in other ways when they try to move to the higher-paying corporate world.

Like  3 Link  Report 



safetylawyer1 2 months ago (Edited)

When I left his former firm, Patton Boggs, in 2001 (around when he got out of law school and joined the firm), they started first year associates with NO prior experience or portable clients at \$150,000 a year. So the comments that he needed to "make up" for time spent at a DOJ salary needs to be viewed in that context. Also once he joined another large firm Post DOJ, he would face


Also once he joined another large firm POST-DOS, he would face huge billable hour quotas. I left that rat race, took a pay cut, and was much happier. Apparently, he was all about the Benjamins.

Like  3 Link  Report 



nottheonlyclown 2 months ago

Wise guy, not so smart.

Like  Link  Report 



basil- 2 months ago

Trying to find a pic of him in his wig...only found this:

https://images.search.yahoo.com/search/images;_ylt=A2KLfRx_a2MADjpXNy0A;_ylu=X3oDMTEodmtycGszBGNvbG8DYmYxBHBvcHZoaWODOjO3MjFfMORzZWMDcGl2cw--?