

Wayne County jury awards \$5.3M for trade secret theft

Ex-employee accused of transferring via email

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In talking to a jury following its awarding \$5.3 million for misappropriation of trade secrets, attorney Keefe A. Brooks said the jurors were clearly bothered by the defendants.

The individual defendant, James Seagram, was accused of using an email account to transfer sensitive intellectual property from his former employer, Walbridge Industrial Process Inc., to his new one, Atlas Industrial Contractors LLC.

Seagram denied doing anything wrong, while Atlas argued that it had none of Walbridge's trade secrets.

But Brooks said that as forensic evidence mounted during trial, Seagram eventually admitted to his actions. However, Atlas said it never asked Seagram to supply Walbridge's trade secrets, and never used the secrets for competitive gain (both companies are construction and engineering management firms).

The Wayne County jury determined that Seagram was 30 percent at fault and Atlas was 70 percent at fault.

"[The jurors] said they were troubled by the fact that there was clearly evidence [Seagram] was sending this stuff around to others at Atlas and, prior to the lawsuit being filed, they did absolutely nothing to stop it," said Brooks, of Brooks Wilkins Sharkey & Turco PLLC in Birmingham.

"So they believed that if Atlas really wasn't involved and so on and so on, they would have done something to stop it."

A Verdicts & Settlements report on *Walbridge Industrial Process LLC v. Atlas Industrial Contractors LLC* can be found [here](#).

'Irrefutable' evidence

Brooks, who tried the case with firm partner Michael R. Turco, said he used "a trilogy of words" in plaintiff's opening and closing statements, in addition to tying those words in while admitting proofs.

"It was essentially a theme of theft, lies and cover-up, because it was about [Seagram] stealing, then lying about it and then covering it up through deletions and denials and false affidavits and the likes," Brooks said. "It was a recurring theme."

He said that when the lawsuit was first filed, the defendants moved for dismissal. Their filed affidavits stated that Seagram did not take anything from Walbridge, and that Atlas' chief financial officer attested that the company did not receive any of Walbridge's information.

But "the evidence that it happened became almost irrefutable," Brooks said.

"We were able to show, through forensic reconstruction of a number of computer files and devices, that [plaintiff] basically pulled an all-nighter the night before his last day, logged into the Walbridge network and forwarded emails to [an email] account," he said.

A number of those emails had attachments including Walbridge manuals, handbooks and spreadsheets with embedded formulas, Brooks said.

"Then we had forensic evidence that he had shared those with others at Atlas," he said. "An estimating spreadsheet had been saved to an Atlas file server so that anyone who had access to that file server could use that spreadsheet."

Brooks said that at one point, he asked what he thought was a throwaway question: "Mr. Seagram, after looking at all this evidence, is it really still your position that you did nothing wrong?"

"And his answer was, 'No. If I had to do this all over again, I wouldn't have done this.' It's kind of a confession, if you will."

Brooks said he believed the defense then took the position that if Seagram would "fall on the sword," that would shield Atlas, "the thought being that that jury might not award a big number against Mr. Seagram, in that they might feel sympathetic toward him."

"But if they were convinced the company had nothing to do with it, then it would just be against Seagram and may be uncollectible and it might not be such a big number and then Atlas would walk," Brooks said. "It didn't work, but that was the defense strategy, to put it all on Seagram."

'A peek behind the curtain'

In calculating damages that Walbridge demanded, Brooks said that he used an unjust enrichment theory: what did it cost Walbridge to develop the materials that Atlas either has or did have the advantage of reviewing.

Those materials "would essentially advance [Atlas] in the marketplace and make it, frankly, easier to compete against us — a peek behind the curtain," Brooks said.

"If we're going head-to-head on a job and they know how we're going to bid it, that's a significant competitive advantage [to Atlas] and a significant competitive disadvantage to our client."

The jury's \$5.3 million award was the full amount Walbridge had sought, Brooks said.

In addition to the misappropriation of trade secrets claim, the jury determined that the defendants engaged in statutory conversion and that Seagram breached his fiduciary duties owed to Walbridge, but awarded no damages on those claims.

Thomas G. Cardelli, the Royal Oak-based attorney who represented the defendants, did not return a call seeking comment on the case.

Brooks said that the best strategy in cases such as Walbridge's is to simply tell the truth.

"To me, at the end of the day, [jurors] decide who's being straight with them and who isn't and that drives their decision-making," he said. "It puts a filter on everything they get thereafter; I can't stress enough to witnesses and clients as they're getting ready to testify that, good, bad or indifferent, they need to tell the truth."

"If the jury thinks you're lying, you're going to lose them," Brooks added. "... You're taking up their time, you're disrupting their lives, they're serving their community by sitting on that jury, and if you get up and lie to them, you're going to lose them."

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